

AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. BLILEY OR MR. SHIMKUS

Strike all after the enacting clause and insert the
following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Commodity Futures Modernization Act of 2000”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

TITLE I—COMMODITY EXCHANGE ACT AMENDMENTS

Sec. 101. Definitions.

Sec. 102. Agreements, contracts, and transactions in foreign currency, govern-
ment securities, and certain other commodities.

Sec. 103. Legal certainty for excluded derivative transactions.

Sec. 104. Excluded electronic trading facilities.

Sec. 105. Hybrid instruments.

Sec. 106. Futures on securities.

Sec. 107. Transactions in exempt commodities and swap transactions.

Sec. 108. Protection of the public interest.

Sec. 109. Prohibited transactions.

Sec. 110. Designation of boards of trade as contract markets.

Sec. 111. Derivatives transaction execution facilities.

Sec. 112. Derivatives clearing organizations.

Sec. 113. Common provisions applicable to registered entities.

Sec. 114. Exempt boards of trade.

Sec. 115. Suspension or revocation of designation as contract market.

Sec. 116. Authorization of appropriations.

Sec. 117. Preemption.

Sec. 118. Consideration of costs and benefits and antitrust laws.

Sec. 119. Contract enforcement between eligible counterparties.

Sec. 120. Special procedures to encourage and facilitate bona fide hedging by
agricultural producers.

Sec. 121. Rule of construction.

Sec. 122. Technical and conforming amendments.

Sec. 123. Privacy.

Sec. 124. Report to Congress.

Sec. 125. Effective date.

2

Sec. 126. International activities of the Commodity Futures Trading Commission.

TITLE II—SECURITIES ACTS AMENDMENTS

Subtitle A—Amendments

- Sec. 201. Definitions under the Securities Exchange Act of 1934.
Sec. 202. Regulatory relief for markets trading security future products.
Sec. 203. Regulatory relief for intermediaries trading security future products.
Sec. 204. Special provisions for interagency cooperation.
Sec. 205. Maintenance of market integrity for security future products.
Sec. 206. Special provisions for the trading of security future products.
Sec. 207. Clearance and settlement.
Sec. 208. Amendments relating to registration and disclosure issues under the Securities Act of 1933 and the Securities Exchange Act of 1934.
Sec. 209. Amendments to the Investment Company Act of 1940 and the Investment Advisers Act of 1940.

Subtitle B—Conforming Amendments to the Commodity Exchange Act

- Sec. 221. Jurisdiction of Securities and Exchange Commission.
Sec. 222. Application of the Commodity Exchange Act to national securities exchanges and national securities associations that trade security futures.
Sec. 223. Notification of investigations and enforcement actions.

Subtitle C—Effective Date

- Sec. 231. Effective date.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to reauthorize the appropriation for the
4 Commodity Futures Trading Commission;

5 (2) to streamline and eliminate unnecessary
6 regulation for the commodity futures exchanges and
7 other entities regulated under the Commodity Ex-
8 change Act;

9 (3) to transform the role of the Commodity Fu-
10 tures Trading Commission to oversight of the fu-
11 tures markets;

1 (4) to provide a statutory and regulatory frame-
2 work for allowing the trading of futures on indi-
3 vidual securities and narrow-based securities indexes
4 in a manner equivalent with the treatment of other
5 similar securities;

6 (5) to provide the Commission jurisdiction over
7 certain retail foreign exchange transactions and
8 bucket shops that may not be otherwise regulated;

9 (6) to promote innovation for futures and de-
10 rivatives and to reduce systemic risk by enhancing
11 legal certainty in the markets for certain futures and
12 derivatives transactions;

13 (7) to reduce systemic risk and provide greater
14 stability to markets during times of market disorder
15 by allowing the clearing of transactions in over-the-
16 counter derivatives through appropriately regulated
17 clearing organizations; and

18 (8) to enhance the competitive position of
19 United States financial institutions and financial
20 markets.

21 **TITLE I—COMMODITY**
22 **EXCHANGE ACT AMENDMENTS**

23 **SEC. 101. DEFINITIONS.**

24 Section 1a of the Commodity Exchange Act (7 U.S.C.
25 1a) is amended—

1 (1) by redesignating paragraphs (8) through
2 (12), (13) and (14), (15), and (16) as paragraphs
3 (15) through (19), (21) and (22), (24), and (29), re-
4 spectively;

5 (2) by inserting after paragraph (7) the fol-
6 lowing:

7 “(8) DERIVATIVES CLEARING ORGANIZATION.—

8 “(A) IN GENERAL.—The term ‘derivatives
9 clearing organization’ means a clearinghouse,
10 clearing association, clearing corporation, or
11 similar entity, facility, system, or organization
12 that, with respect to a derivative agreement,
13 contract, or transaction—

14 “(i) enables each party to the deriva-
15 tive agreement, contract, or transaction to
16 substitute, through novation or otherwise,
17 the credit of the derivatives clearing orga-
18 nization for the credit of the parties;

19 “(ii) arranges or provides, on a multi-
20 lateral basis, for the settlement or netting
21 of obligations resulting from such agree-
22 ments, contracts, or transactions executed
23 by parties in the derivatives clearing orga-
24 nization; or

1 “(iii) otherwise provides clearing serv-
2 ices or arrangements that mutualize or
3 transfer among parties in the derivatives
4 clearing organization the credit risk arising
5 from such agreements, contracts, or trans-
6 actions executed by the parties.

7 “(B) EXCLUSIONS.—The term ‘derivatives
8 clearing organization’ does not include an enti-
9 ty, facility, system, or organization solely be-
10 cause it arranges or provides for—

11 “(i) settlement, netting, or novation of
12 obligations resulting from agreements, con-
13 tracts, or transactions, on a bilateral basis
14 and without a centralized counterparty;

15 “(ii) settlement or netting of cash
16 payments through an interbank payment
17 system; or

18 “(iii) settlement, netting, or novation
19 of obligations resulting from a sale of a
20 commodity in a transaction in the spot
21 market for the commodity.

22 “(9) ELECTRONIC TRADING FACILITY.—The
23 term ‘electronic trading facility’ means a trading fa-
24 cility that—

1 “(A) operates by means of an electronic
2 network; and

3 “(B) maintains a real-time audit trail of
4 bids, offers, and the matching of orders or the
5 execution of transactions.

6 “(10) ELIGIBLE COMMERCIAL PARTICIPANT.—
7 The term ‘eligible commercial participant’ means a
8 party or entity described in paragraph (11)(A)(i),
9 (ii), (v), or (viii) or paragraph (11)(C), who, in con-
10 nection with its business—

11 “(A) has a demonstrable capacity or abil-
12 ity, directly or through separate contractual ar-
13 rangements, to make or take delivery of the un-
14 derlying physical commodity;

15 “(B) incurs risks, in addition to price risk,
16 related to the commodity; or

17 “(C) is a dealer that regularly provides
18 hedging, risk management, or market-making
19 services to the foregoing entities.

20 “(11) ELIGIBLE CONTRACT PARTICIPANT.—The
21 term ‘eligible contract participant’ means—

22 “(A) acting for its own account—

23 “(i) a financial institution;

24 “(ii) an insurance company regulated
25 by a State or a foreign government (in-

1 cluding a regulated subsidiary or affiliate
2 of such an insurance company);

3 “(iii) an investment company subject
4 to regulation under the Investment Com-
5 pany Act of 1940 (15 U.S.C. 80a–1 et
6 seq.) or a foreign person performing a
7 similar role or function subject as such to
8 foreign regulation (regardless of whether
9 each investor in the investment company or
10 the foreign person is itself an eligible con-
11 tract participant);

12 “(iv) a commodity pool that—

13 “(I) has total assets exceeding
14 \$5,000,000; and

15 “(II) is formed and operated by a
16 person subject to regulation under
17 this Act or a foreign person per-
18 forming a similar role or function sub-
19 ject as such to foreign regulation (re-
20 gardless of whether each investor in
21 the commodity pool or the foreign per-
22 son is itself an eligible contract partic-
23 ipant);

1 “(v) a corporation, partnership, pro-
2 prietorship, organization, trust, or other
3 entity—

4 “(I) that has total assets exceed-
5 ing \$10,000,000;

6 “(II) the obligations of which
7 under an agreement, contract, or
8 transaction are guaranteed or other-
9 wise supported by a letter of credit or
10 keepwell, support, or other agreement
11 by an entity described in subclause
12 (I), in clause (i), (ii), (iii), (iv), or
13 (vii), or in subparagraph (C); or

14 “(III) that—

15 “(aa) has a net worth ex-
16 ceeding \$1,000,000; and

17 “(bb) enters into an agree-
18 ment, contract, or transaction in
19 connection with the conduct of
20 the entity’s business or to man-
21 age the risk associated with an
22 asset or liability owned or in-
23 curred or reasonably likely to be
24 owned or incurred by the entity

1 in the conduct of the entity's
2 business;

3 “(vi) an employee benefit plan subject
4 to the Employee Retirement Income Secu-
5 rity Act of 1974 (29 U.S.C. 1001 et seq.)
6 or a foreign person performing a similar
7 role or function subject as such to foreign
8 regulation—

9 “(I) that has total assets exceed-
10 ing \$5,000,000; or

11 “(II) the investment decisions of
12 which are made by—

13 “(aa) an investment advisor
14 or commodity trading advisor
15 subject to regulation under the
16 Investment Advisers Act of 1940
17 (15 U.S.C. 80b–1 et seq.) or this
18 Act;

19 “(bb) a foreign person per-
20 forming a similar role or function
21 subject as such to foreign regula-
22 tion;

23 “(cc) a financial institution;
24 or

1 “(dd) an insurance company
2 regulated by a State or a foreign
3 government (including a regu-
4 lated subsidiary or affiliate of
5 such an insurance company);

6 “(vii)(I) a governmental entity (in-
7 cluding the United States, a State, or a
8 foreign government) or political subdivision
9 of a governmental entity;

10 “(II) a multinational or supranational
11 government entity; or

12 “(III) an instrumentality, agency, or
13 department of an entity described in sub-
14 clause (I) or (II);

15 “(viii)(I) a broker or dealer subject to
16 regulation under the Securities Exchange
17 Act of 1934 (15 U.S.C. 78a et seq.) or a
18 foreign person performing a similar role or
19 function subject as such to foreign regula-
20 tion, except that, if the broker or dealer or
21 foreign person is a natural person or pro-
22 prietorship, the broker or dealer or foreign
23 person shall not be considered to be an eli-
24 gible contract participant unless the broker

1 or dealer or foreign person also meets the
2 requirements of clause (v) or (xi);

3 “(II) an associated person of a reg-
4 istered broker or dealer concerning the fi-
5 nancial or securities activities of which the
6 registered person makes and keeps records
7 under section 15C(b) or 17(h) of the Secu-
8 rities Exchange Act of 1934 (15 U.S.C.
9 78o-5(b), 78q(h));

10 “(III) an investment bank holding
11 company (as defined in section 17(i) of the
12 Securities Exchange Act of 1934 (15
13 U.S.C. 78q(i));

14 “(ix)(I) a futures commission mer-
15 chant subject to regulation under this Act
16 or a foreign person performing a similar
17 role or function subject as such to foreign
18 regulation, except that, if the futures com-
19 mission merchant or foreign person is a
20 natural person or proprietorship, the fu-
21 tures commission merchant or foreign per-
22 son shall not be considered to be an eligi-
23 ble contract participant unless the futures
24 commission merchant or foreign person

1 also meets the requirements of clause (v)
2 or (xi); or

3 “(II) an associated person of a reg-
4 istered futures commission merchant con-
5 cerning the financial activities of which the
6 registered person makes and keeps records
7 under section 4f(c)(2)(B) of this Act;

8 “(x) a floor broker or floor trader sub-
9 ject to regulation under this Act in connec-
10 tion with any transaction that takes place
11 on or through the facilities of a registered
12 entity or an exempt board of trade, or any
13 affiliate thereof, on which such person reg-
14 ularly trades; or

15 “(xi) a natural person with total as-
16 sets exceeding \$10,000,000;

17 “(B)(i) a person described in clause (i),
18 (ii), (viii), (ix), or (x) of subparagraph (A) or
19 in subparagraph (C), acting as broker or per-
20 forming an equivalent agency function on behalf
21 of another person described in subparagraph
22 (A) or (C); or

23 “(ii) an investment adviser subject to regu-
24 lation under the Investment Advisors Act of
25 1940, a commodity trading advisor subject to

1 regulation under this Act, a foreign person per-
2 forming a similar role or function subject as
3 such to foreign regulation, or a person de-
4 scribed in clause (i), (ii), (viii), (ix), or (x) of
5 subparagraph (A) or in subparagraph (C), in
6 any such case acting as investment manager or
7 fiduciary (but excluding a person acting as
8 broker or performing an equivalent agency
9 function) for another person described in sub-
10 paragraph (A) or (C) and who is authorized by
11 such person to commit such person to the
12 transaction; or

13 “(C) any other person that the Commis-
14 sion determines to be eligible in light of the fi-
15 nancial or other qualifications of the person;

16 except that entities that are eligible contract partici-
17 pants under clause (v), (vi), (vii)(I) or (III), or (xi)
18 of subparagraph (A) or subparagraph (C) and own
19 and invest on a discretionary basis less than
20 \$50,000,000 in investments, shall only be considered
21 eligible contract participants if the agreement, con-
22 tract, or transaction is offered by, and entered into
23 with, an entity that is listed in any of subclauses (I)
24 through (VI) of section 2(c)(2)(B)(ii) of this Act.

1 “(12) EXCLUDED COMMODITY.—The term ‘ex-
2 cluded commodity’ means—

3 “(A) an interest rate, exchange rate, cur-
4 rency, security, security index, credit risk or
5 measure, debt or equity instrument, or index or
6 measure of inflation;

7 “(B) any other rate, differential, index, or
8 measure of economic or commercial risk, re-
9 turn, or value that—

10 “(i) is not within the control of any
11 party to the relevant contract, agreement,
12 or transaction; and

13 “(ii) is not based in substantial part
14 on the value of a limited number of com-
15 modities not described in subparagraph
16 (A) that have a finite supply; or

17 “(C) an occurrence, extent of an occur-
18 rence, or contingency associated with commer-
19 cial or economic consequences beyond the con-
20 trol of the parties to the relevant contract,
21 agreement, or transaction.

22 “(13) EXEMPT COMMODITY.—The term ‘exempt
23 commodity’ means a commodity that is not an ex-
24 cluded commodity and is not an agricultural com-
25 modity.

1 “(14) FINANCIAL INSTITUTION.—The term ‘fi-
2 nancial institution’ means—

3 “(A) a corporation operating under the
4 fifth undesignated paragraph of section 25 of
5 the Federal Reserve Act (12 U.S.C. 603), com-
6 monly known as ‘an agreement corporation’;

7 “(B) a corporation organized under section
8 25A of the Federal Reserve Act (12 U.S.C. 611
9 et seq.), commonly known as an ‘Edge Act cor-
10 poration’;

11 “(C) an institution that is regulated by the
12 Farm Credit Administration;

13 “(D) a Federal credit union or State credit
14 union (as defined in section 101 of the Federal
15 Credit Union Act (12 U.S.C. 1752));

16 “(E) a depository institution (as defined in
17 section 3 of the Federal Deposit Insurance Act
18 (12 U.S.C. 1813));

19 “(F) a foreign bank or a branch or agency
20 of a foreign bank (each as defined in section
21 1(b) of the International Banking Act of 1978
22 (12 U.S.C. 3101(b)));

23 “(G) a financial holding company (as de-
24 fined in section 2 of the Bank Holding Com-
25 pany Act of 1956 (12 U.S.C. 1841));

1 “(H) a trust company; or

2 “(I) a similarly regulated subsidiary or af-
3 filiate of an entity described in any of subpara-
4 graphs (A) through (H).”;

5 (3) by inserting after paragraph (19) (as redes-
6 ignated by paragraph (1)) the following:

7 “(20) HYBRID INSTRUMENT.—The term ‘hybrid
8 instrument’ means a deposit (as defined in section 3
9 of the Federal Deposit Insurance Act (12 U.S.C.
10 1813)) offered by a financial institution, or a secu-
11 rity, having 1 or more payments indexed to the
12 value, level, or rate of 1 or more commodities.”;

13 (4) by inserting after paragraph (22) (as redes-
14 ignated by paragraph (1)) the following:

15 “(23)(A) MARGIN.—The term ‘margin’, when
16 used with respect to a security future product,
17 means the amount, type, and form of collateral re-
18 quired to secure any extension or maintenance of
19 credit, or the amount, type, and form of collateral
20 required as a performance bond related to the pur-
21 chase, sale, or carrying of a security future product,
22 and all other uses of collateral related to the pur-
23 chasing, selling, or carrying of a security future
24 product.

1 “(B) The terms ‘margin level’ and ‘level of mar-
2 gin’, when used with respect to a security future
3 product, mean the amount of margin required to se-
4 cure any extension or maintenance of credit, or the
5 amount of margin required as a performance bond
6 related to the purchase, sale, or carrying of a secu-
7 rity future product.

8 “(C) The terms ‘higher margin level’ and ‘high-
9 er level of margin’, when used with respect to a se-
10 curity future product, mean a margin level estab-
11 lished by a contract market that is higher than the
12 minimum amount established by the Securities and
13 Exchange Commission pursuant to section
14 7(c)(2)(B) of the Securities Exchange Act of 1934.”;

15 (5) by inserting after paragraph (24) (as redes-
16 ignated by paragraph (1)) the following:

17 “(25) NARROW-BASED SECURITY INDEX.—The
18 term ‘narrow-based security index’ means an index
19 of securities on which contracts for future delivery
20 are not permitted under section 2(a)(1)(C) of this
21 Act, including any interest therein or based on the
22 value thereof.

23 “(26) NONEXEMPT SECURITY.—The term ‘non-
24 exempt security’ means a security that is not an ex-
25 empted security under section 3(a)(12) of the Secu-

1 rities Exchange Act of 1934 as in effect on the date
2 of enactment of the Futures Trading Act of 1982
3 (other than any municipal security, as defined in
4 section 3(a)(29) of the Securities Exchange Act of
5 1934 as in effect on the date of enactment of the
6 Futures Trading Act of 1982).

7 “(27) OPTION.—The term ‘option’ means an
8 agreement, contract, or transaction that is of the
9 character of, or is commonly known to the trade as,
10 an ‘option’, ‘privilege’, ‘indemnity’, ‘bid’, ‘offer’,
11 ‘put’, ‘call’, ‘advance guaranty’, or ‘decline guar-
12 anty’.

13 “(28) ORGANIZED EXCHANGE.—The term ‘or-
14 ganized exchange’ means a trading facility that—

15 “(A) permits trading—

16 “(i) by or on behalf of a person that
17 is not an eligible contract participant; or

18 “(ii) by persons other than on a prin-
19 cipal-to-principal basis; or

20 “(B) has adopted (directly or through an-
21 other nongovernmental entity) rules that—

22 “(i) govern the conduct of partici-
23 pants, other than rules that govern the
24 submission of orders or execution of trans-
25 actions on the trading facility; or

1 “(ii) include disciplinary sanctions
2 other than the exclusion of participants
3 from trading.”; and

4 (6) by adding at the end the following:

5 “(30) REGISTERED ENTITY.—The term ‘reg-
6 istered entity’ means—

7 “(A) a board of trade designated as a con-
8 tract market under section 5;

9 “(B) a derivatives transaction execution fa-
10 cility registered under section 5a; or

11 “(C) a derivatives clearing organization
12 registered under section 5b.

13 “(31) SECURITY.—The term ‘security’ means a
14 security as defined in section 2(a)(1) of the Securi-
15 ties Act of 1933 (15 U.S.C. 77b(a)(1)) or section
16 3(a)(10) of the Securities Exchange Act of 1934 (15
17 U.S.C. 78c(a)(10)).

18 “(32) SECURITY FUTURE.—The term ‘security
19 future’ means a contract of sale for future delivery
20 of a single security or of a narrow-based security
21 index, including any interest therein or based on the
22 value thereof, except an exempted security under
23 section 3(a)(12) of the Securities Exchange Act of
24 1934 as in effect on the date of enactment of the
25 Futures Trading Act of 1982 (other than any mu-

1 nicipal security as defined in section 3(a)(29) of the
2 Securities Exchange Act of 1934 as in effect on the
3 date of enactment of the Futures Trading Act of
4 1982).

5 “(33) SECURITY FUTURE PRODUCT.—The term
6 ‘security future product’ means a security future or
7 any put, call, straddle, option, or privilege on any se-
8 curity future.

9 “(34) TRADING FACILITY.—

10 “(A) IN GENERAL.—The term ‘trading fa-
11 cility’ means a person or group of persons that
12 constitutes, maintains, or provides a physical or
13 electronic facility or system in which multiple
14 participants have the ability to execute or trade
15 agreements, contracts, or transactions by ac-
16 cepting bids and offers made by other partici-
17 pants that are open to multiple participants in
18 the facility or system.

19 “(B) EXCLUSIONS.—The term ‘trading fa-
20 cility’ does not include—

21 “(i) a person or group of persons sole-
22 ly because the person or group of
23 persons—

24 “(I) constitutes, maintains, or
25 provides an electronic facility or sys-

1 tem that enables participants to nego-
2 tiate the terms of and enter into bilat-
3 eral transactions as a result of com-
4 munications exchanged by the parties
5 and not from interaction of multiple
6 orders within a predetermined, non-
7 discretionary automated trade match-
8 ing algorithm; or

9 “(II) is a derivatives clearing or-
10 ganization;

11 “(ii) a government securities dealer or
12 government securities broker, to the extent
13 that the dealer or broker executes or
14 trades agreements, contracts, or trans-
15 actions in government securities, or assists
16 persons in communicating about, negoti-
17 ating, entering into, executing, or trading
18 an agreement, contract, or transaction in
19 government securities (as the terms ‘gov-
20 ernment securities dealer’, ‘government se-
21 curities broker’, and ‘government securi-
22 ties’ are defined in section 3(a) of the Se-
23 curities Exchange Act of 1934 (15 U.S.C.
24 78c(a))); or

1 “(iii) facilities on which bids and of-
2 fers, and acceptances of bids and offers ef-
3 fected on the facility, are not binding.”.

4 **SEC. 102. AGREEMENTS, CONTRACTS, AND TRANSACTIONS**
5 **IN FOREIGN CURRENCY, GOVERNMENT SECU-**
6 **RITIES, AND CERTAIN OTHER COMMODITIES.**

7 Section 2 of the Commodity Exchange Act (7 U.S.C.
8 2, 2a, 3, 4, 4a) is amended by adding at the end the fol-
9 lowing:

10 “(c) AGREEMENTS, CONTRACTS, AND TRANSACTIONS
11 IN FOREIGN CURRENCY, GOVERNMENT SECURITIES, AND
12 CERTAIN OTHER COMMODITIES.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), nothing in this Act (other than section 5b
15 or 12(e)(2)(B)) governs or applies to an agreement,
16 contract, or transaction in—

17 “(A) foreign currency;

18 “(B) government securities;

19 “(C) security warrants;

20 “(D) security rights;

21 “(E) resales of installment loan contracts;

22 “(F) repurchase agreements in an excluded
23 commodity; or

24 “(G) mortgages or mortgage purchase
25 commitments.

1 “(2) COMMISSION JURISDICTION.—

2 “(A) AGREEMENTS, CONTRACTS, AND
3 TRANSACTIONS THAT ARE FUTURES TRADED
4 ON AN ORGANIZED EXCHANGE.—This Act ap-
5 plies to, and the Commission shall have juris-
6 diction over, an agreement, contract, or trans-
7 action described in paragraph (1) that is—

8 “(i) a contract of sale of a commodity
9 for future delivery (or an option thereon),
10 or an option on a commodity (other than
11 foreign currency or a security or group or
12 index of securities), that is executed or
13 traded on an organized exchange; or

14 “(ii) an option on foreign currency
15 and is executed or traded on an organized
16 exchange that is not a national securities
17 exchange registered pursuant to section
18 6(a) of the Securities Exchange Act of
19 1934.

20 “(B) AGREEMENTS, CONTRACTS, AND
21 TRANSACTIONS IN RETAIL FOREIGN CUR-
22 RENCY.—This Act applies to, and the Commis-
23 sion shall have jurisdiction over, an agreement,
24 contract, or transaction in foreign currency
25 that—

1 “(i) is a contract of sale for future de-
2 livery (or an option on such a contract) or
3 an option; and

4 “(ii) is offered to, or entered into
5 with, a person that is not an eligible con-
6 tract participant, unless the counterparty,
7 or the person offering to be the
8 counterparty, of the person is—

9 “(I) a financial institution;

10 “(II) a broker or dealer reg-
11 istered under section 15(b) or 15C of
12 the Securities Exchange Act of 1934
13 (15 U.S.C. 78o(b), 78o–5) or a fu-
14 tures commission merchant registered
15 under this Act;

16 “(III) an associated person of a
17 broker or dealer registered under sec-
18 tion 15(b) or 15C of the Securities
19 Exchange Act of 1934 (15 U.S.C.
20 78o(b), 78o–5), or an affiliated person
21 of a futures commission merchant
22 registered under this Act, concerning
23 the financial or securities activities of
24 which the registered person makes
25 and keeps records under section

1 15C(b) or 17(h) of the Securities Ex-
2 change Act of 1934 (15 U.S.C. 78o-
3 5(b), 78q(h)) or section 4f(c)(2)(B) of
4 this Act;

5 “(IV) an insurance company that
6 is subject to State regulation (includ-
7 ing a subsidiary or affiliate of such an
8 insurance company);

9 “(V) a financial holding company
10 (as defined in section 2 of the Bank
11 Holding Company Act of 1956); or

12 “(VI) an investment bank hold-
13 ing company (as defined in section
14 17(i) of the Securities Exchange Act
15 of 1934).”.

16 **SEC. 103. LEGAL CERTAINTY FOR EXCLUDED DERIVATIVE**
17 **TRANSACTIONS.**

18 Section 2 of the Commodity Exchange Act (7 U.S.C.
19 2, 2a, 3, 4, 4a) (as amended by section 102) is amended
20 by adding at the end the following:

21 “(d) EXCLUDED DERIVATIVE TRANSACTIONS.—

22 “(1) IN GENERAL.—Nothing in this Act (other
23 than section 5b or 12(e)(2)(B)) governs or applies to
24 an agreement, contract, or transaction in an ex-
25 cluded commodity if—

1 “(A) the agreement, contract, or trans-
2 action is entered into only between persons that
3 are eligible contract participants at the time at
4 which the persons enter into the agreement,
5 contract, or transaction; and

6 “(B) the agreement, contract, or trans-
7 action is not executed or traded on a trading fa-
8 cility.

9 “(2) ELECTRONIC TRADING FACILITY EXCLU-
10 SION.—Nothing in this Act (other than section 5a,
11 5b, or 12(e)(2)(B)) governs or applies to an agree-
12 ment, contract, or transaction in an excluded com-
13 modity if—

14 “(A) the agreement, contract, or trans-
15 action is entered into on a principal-to-principal
16 basis between parties trading for their own ac-
17 counts or as described in section 1a(11)(B)(ii)
18 of this Act;

19 “(B) the agreement, contract, or trans-
20 action is entered into only between persons that
21 are eligible contract participants (as defined in
22 sections 1a(11)(A), (B)(ii), and (C)) at the time
23 at which the persons enter into the agreement,
24 contract, or transaction; and

1 “(C) the agreement, contract, or trans-
2 action is executed or traded on an electronic
3 trading facility.”.

4 **SEC. 104. EXCLUDED ELECTRONIC TRADING FACILITIES.**

5 Section 2 of the Commodity Exchange Act (7 U.S.C.
6 2, 2a, 3, 4, 4a) (as amended by section 103) is amended
7 by adding at the end the following:

8 “(e) EXCLUDED ELECTRONIC TRADING FACILI-
9 TIES.—

10 “(1) IN GENERAL.—Nothing in this Act (other
11 than section 12(e)(2)(B)) governs or is applicable to
12 an electronic trading facility that limits transactions
13 authorized to be conducted on its facilities to those
14 satisfying the requirements of sections 2(d)(2) and
15 2(h)(3) of this Act.

16 “(2) EFFECT ON AUTHORITY TO ESTABLISH
17 AND OPERATE.—Nothing in this Act shall prohibit a
18 board of trade designated by the Commission as a
19 contract market or derivatives transaction execution
20 facility, or an exempt board of trade, from estab-
21 lishing and operating an excluded electronic trading
22 facility excluded under this Act pursuant to para-
23 graph (1).”.

1 **SEC. 105. HYBRID INSTRUMENTS.**

2 Section 2 of the Commodity Exchange Act (7 U.S.C.
3 2, 2a, 3, 4, 4a) (as amended by section 104) is amended
4 by adding at the end the following:

5 “(f) EXCLUSION FOR QUALIFYING HYBRID INSTRU-
6 MENTS.—

7 “(1) IN GENERAL.—Nothing in this Act (other
8 than section 12(e)(2)(B)) governs or is applicable to
9 a hybrid instrument that is predominantly a security
10 or depository instrument.

11 “(2) PREDOMINANCE.—A hybrid instrument
12 shall be considered to be predominantly a security or
13 depository instrument if—

14 “(A) the issuer of the hybrid instrument
15 receives payment in full of the purchase price of
16 the hybrid instrument, substantially contem-
17 poraneously with delivery of the hybrid instru-
18 ment;

19 “(B) the purchaser or holder of the hybrid
20 instrument is not required to make any pay-
21 ment to the issuer in addition to the purchase
22 price paid under subparagraph (A), whether as
23 margin, settlement payment, or otherwise, dur-
24 ing the life of the hybrid instrument or at ma-
25 turity;

1 “(C) the issuer of the hybrid instrument is
2 not subject by the terms of the instrument to
3 mark-to-market margining requirements; and

4 “(D) the hybrid instrument is not mar-
5 keted as a contract of sale for future delivery
6 of a commodity (or option on such a contract)
7 subject to this Act.

8 “(3) MARK-TO-MARKET MARGINING REQUIRE-
9 MENTS.—For the purposes of paragraph (2)(C),
10 mark-to-market margining requirements do not in-
11 clude the obligation of an issuer of a secured debt
12 instrument to increase the amount of collateral held
13 in pledge for the benefit of the purchaser of the se-
14 cured debt instrument to secure the repayment obli-
15 gations of the issuer under the secured debt instru-
16 ment.”.

17 **SEC. 106. FUTURES ON SECURITIES.**

18 Section 2 of the Commodity Exchange Act (7 U.S.C.
19 2, 2a, 3, 4, 4a) (as amended by section 105) is amended
20 by adding at the end the following:

21 “(g) Nothing in subsection (a)(1)(C) or (a)(1)(D)
22 governs or applies to—

23 “(1) an agreement, contract, or transaction
24 that is excluded under subsection (c) or (d) (whether

1 or not the agreement, contract, or transaction is oth-
2 erwise subject to this Act);

3 “(2) an electronic trading facility that is ex-
4 cluded under subsection (e); or

5 “(3) a hybrid instrument that is covered by an
6 exclusion under subsection (f) or an exemption
7 granted by the Commission under section 4(c)
8 (whether or not the hybrid instrument is otherwise
9 subject to this Act).”.

10 **SEC. 107. TRANSACTIONS IN EXEMPT COMMODITIES AND**
11 **SWAP TRANSACTIONS.**

12 Section 2 of the Commodity Exchange Act (7 U.S.C.
13 2, 2a, 3, 4, 4a) (as amended by section 106) is amended
14 by adding at the end the following:

15 “(h) **LEGAL CERTAINTY FOR CERTAIN TRANS-**
16 **ACTIONS IN EXEMPT COMMODITIES.—**

17 “(1) Except as provided in paragraph (2) of
18 this subsection, nothing in this Act shall apply to a
19 contract, agreement or transaction in an exempt
20 commodity which—

21 “(A) is entered into solely between persons
22 that are eligible contract participants at the
23 time they enter into the agreement, contract, or
24 transaction; and

1 “(B) is not entered into on a trading facil-
2 ity.

3 “(2) An agreement, contract, or transaction de-
4 scribed in paragraph (1) of this subsection shall be
5 subject to—

6 “(A) sections 5b and 12(e)(2)(B) of this
7 Act;

8 “(B) sections 4b and 4o of this Act and
9 the regulations of the Commission pursuant to
10 section 4e(b) of this Act proscribing fraud in
11 connection with commodity option transactions,
12 to the extent such agreement, contract, or
13 transaction is not between eligible commercial
14 participants and would otherwise be subject to
15 those provisions; and

16 “(C) sections 6(c) and 9(a)(2) of this Act
17 to the extent they prohibit manipulation of the
18 market price of any commodity in interstate
19 commerce, to the extent such agreement, con-
20 tract, or transaction would otherwise be subject
21 to those provisions.

22 “(3) Except as provided in paragraph (4) of
23 this subsection, nothing in this Act shall apply to an
24 agreement, contract, or transaction in an exempt
25 commodity which—

1 “(A) is entered into on a principal-to-prin-
2 cipal basis solely between persons that are eligi-
3 ble contract participants at the time at which
4 the persons enter into the agreement, contract,
5 or transaction;

6 “(B) entered into only between persons
7 that are eligible contract participants (as de-
8 fined in sections 1a(11)(A), (B)(ii), (B)(iii),
9 and (C) at the time at which the persons enter
10 into the agreement, contract, or transaction;
11 and

12 “(C) is executed or traded on an electronic
13 trading facility.

14 “(4) An agreement, contract, or transaction de-
15 scribed in paragraph (3) shall be subject to—

16 “(A) sections 5a (to the extent so provided
17 in section 5a(g)), 5b, and 12(e)(2)(B) of this
18 Act;

19 “(B) sections 4b and 4o of this Act and
20 the regulations of the Commission pursuant to
21 section 4c(b) of this Act proscribing fraud in
22 connection with commodity option transactions
23 to the extent such agreement, contract, or
24 transaction would otherwise be subject to those
25 provisions;

1 “(C) sections 6(c) and 9(a)(2) of this Act,
2 to the extent they prohibit manipulation of the
3 market price of any commodity in interstate
4 commerce and to the extent such agreement,
5 contract, or transaction would otherwise be sub-
6 ject to those provisions; and

7 “(D) such rules and regulations as the
8 Commission may prescribe if necessary to en-
9 sure timely dissemination by the electronic trad-
10 ing facility of price, trading volume, and other
11 trading data to the extent appropriate, if the
12 Commission determines that the electronic trad-
13 ing facility performs a significant price dis-
14 covery function for transactions in the cash
15 market for the commodity underlying any
16 agreement, contract, or transaction executed or
17 traded on the electronic trading facility.

18 “(i) APPLICATION OF THE ACT.—Nothing in this Act
19 shall be construed (1) as implying or creating any pre-
20 sumption that (A) any agreement, contract, or transaction
21 that is eligible for an exclusion or exemption from regula-
22 tion under this Act or (B) any agreement, contract, or
23 transaction that is not eligible for an exclusion or exemp-
24 tion from regulation under this Act is or would otherwise
25 be subject to this Act or (2) as conferring jurisdiction on

1 the Commission with respect to any such agreement, con-
2 tract, or transaction, except as expressly provided in sec-
3 tion 5a (to the extent so provided in section 5a(g) and
4 5b.”.

5 **SEC. 108. PROTECTION OF THE PUBLIC INTEREST.**

6 The Commodity Exchange Act is amended by striking
7 section 3 (7 U.S.C. 5) and inserting the following:

8 **“SEC. 3. FINDINGS AND PURPOSE.**

9 “(a) FINDINGS.—The futures contracts and options
10 contracts that are subject to this Act are entered into reg-
11 ularly in interstate and international commerce and are
12 affected with a national public interest by providing a
13 means for managing and assuming price risks, discovering
14 prices, and disseminating pricing information through
15 trading in liquid, fair and financially secure trading facili-
16 ties.

17 “(b) PURPOSE.—It is the purpose of this Act to serve
18 the public interests described in subsection (a) through a
19 system of effective self-regulation of trading facilities,
20 clearing systems, market participants and market profes-
21 sionals under the oversight of the Commission. To foster
22 these public interests, it is further the purpose of this Act
23 to deter and prevent price manipulation or any other dis-
24 ruptions to market integrity; to ensure the financial integ-
25 rity of all transactions subject to this Act and the avoid-

1 ance of systemic risk; to protect all market participants
2 from fraudulent or other abusive sales practices and mis-
3 uses of customer assets; and to promote responsible inno-
4 vation and fair competition among boards of trade, other
5 markets and market participants.”.

6 **SEC. 109. PROHIBITED TRANSACTIONS.**

7 Section 4c of the Commodity Exchange Act (7 U.S.C.
8 6c) is amended by striking “SEC. 4c.” and all that follows
9 through subsection (a) and inserting the following:

10 **“SEC. 4c. PROHIBITED TRANSACTIONS.**

11 “(a) IN GENERAL.—

12 “(1) PROHIBITION.—It shall be unlawful for
13 any person to offer to enter into, enter into, or con-
14 firm the execution of a transaction described in
15 paragraph (2) involving any commodity if the trans-
16 action is used or may be used to—

17 “(A) hedge any transaction in interstate
18 commerce in the commodity or the product or
19 byproduct of the commodity;

20 “(B) determine the price basis of any such
21 transaction in interstate commerce in the com-
22 modity; or

23 “(C) deliver any such commodity sold,
24 shipped, or received in interstate commerce for
25 the execution of the transaction.

1 “(2) TRANSACTION.—A transaction referred to
2 in paragraph (1) is a transaction that—

3 “(A)(i) is, is of the character of, or is com-
4 monly known to the trade as, a ‘wash sale’ or
5 ‘accommodation trade’; or

6 “(ii) is a fictitious sale; or

7 “(B) is used to cause any price to be re-
8 ported, registered, or recorded that is not a
9 true and bona fide price.”.

10 **SEC. 110. DESIGNATION OF BOARDS OF TRADE AS CON-**
11 **TRACT MARKETS.**

12 The Commodity Exchange Act is amended—

13 (1) by redesignating section 5b (7 U.S.C. 7b)
14 as section 5e; and

15 (2) by striking sections 5 and 5a (7 U.S.C. 7,
16 7a) and inserting the following:

17 **“SEC. 5. DESIGNATION OF BOARDS OF TRADE AS CON-**
18 **TRACT MARKETS.**

19 “(a) APPLICATIONS.—A board of trade applying to
20 the Commission for designation as a contract market shall
21 submit an application to the Commission that includes any
22 relevant materials and records the Commission may re-
23 quire consistent with this Act.

24 “(b) CRITERIA FOR DESIGNATION.—

1 “(1) IN GENERAL.—To be designated as a con-
2 tract market, the board of trade shall demonstrate
3 to the Commission that the board of trade meets the
4 criteria specified in this subsection.

5 “(2) PREVENTION OF MARKET MANIPULA-
6 TION.—The board of trade shall have the capacity to
7 prevent market manipulation through market sur-
8 veillance, compliance, and enforcement practices and
9 procedures, including methods for conducting real-
10 time monitoring of trading and comprehensive and
11 accurate trade reconstructions.

12 “(3) FAIR AND EQUITABLE TRADING.—The
13 board of trade shall establish and enforce trading
14 rules to ensure fair and equitable trading through
15 the facilities of the contract market, and the capac-
16 ity to detect, investigate, and discipline any person
17 that violates the rules. Such rules may authorize—

18 “(A) an exchange of—

19 “(i) futures in connection with a cash
20 commodity transaction;

21 “(ii) futures for cash commodities;

22 “(iii) transfer trades or office trades;

23 or

24 “(iv) futures for swaps; and

1 “(B) a futures commission merchant, act-
2 ing as principal or agent, to enter into or con-
3 firm the execution of a contract for the pur-
4 chase or sale of a commodity for future delivery
5 if the contract is reported, recorded, or cleared
6 in accordance with the rules of the contract
7 market or a derivatives clearing organization.

8 “(4) TRADE EXECUTION FACILITY.—The board
9 of trade shall—

10 “(A) establish and enforce rules defining,
11 or specifications detailing, the manner of oper-
12 ation of the trade execution facility maintained
13 by the board of trade, including rules or speci-
14 fications describing the operation of any elec-
15 tronic matching platform; and

16 “(B) demonstrate that the trading facility
17 operates in accordance with the rules or speci-
18 fications.

19 “(5) FINANCIAL INTEGRITY OF TRANS-
20 ACTIONS.—The board of trade shall establish and
21 enforce rules and procedures for ensuring the finan-
22 cial integrity of transactions entered into by or
23 through the facilities of the contract market.

24 “(6) DISCIPLINARY PROCEDURES.—The board
25 of trade shall establish and enforce disciplinary pro-

1 cedures that authorize the board of trade to dis-
2 cipline, suspend, or expel members or market par-
3 ticipants that violate the rules of the board of trade,
4 or similar methods for performing the same func-
5 tions, including delegation of the functions to third
6 parties.

7 “(7) PUBLIC ACCESS.—The board of trade shall
8 provide the public with access to the rules, regula-
9 tions, and contract specifications of the board of
10 trade.

11 “(8) ABILITY TO OBTAIN INFORMATION.—The
12 board of trade shall establish and enforce rules that
13 will allow the board of trade to obtain any necessary
14 information to perform any of the functions de-
15 scribed in this subsection, including the capacity to
16 carry out such international information-sharing
17 agreements as the Commission may require.

18 “(c) EXISTING CONTRACT MARKETS.—A board of
19 trade that is designated as a contract market on the effec-
20 tive date of the Commodity Futures Modernization Act of
21 2000 shall be considered to be a designated contract mar-
22 ket under this section.

23 “(d) CORE PRINCIPLES FOR CONTRACT MARKETS.—

24 “(1) IN GENERAL.—To maintain the designa-
25 tion of a board of trade as a contract market, a

1 board of trade shall comply with the core principles
2 specified in this subsection.

3 “(2) COMPLIANCE WITH RULES.—The board of
4 trade shall monitor and enforce compliance with the
5 rules of the contract market, including the terms
6 and conditions of any contracts to be traded and any
7 limitations on access to the contract market.

8 “(3) CONTRACTS NOT READILY SUBJECT TO
9 MANIPULATION.—The board of trade shall list on
10 the contract market only contracts that are not
11 readily susceptible to manipulation.

12 “(4) MONITORING OF TRADING.—The board of
13 trade shall monitor trading to prevent manipulation,
14 price distortion, and disruptions of the delivery or
15 cash-settlement process.

16 “(5) POSITION LIMITATIONS OR ACCOUNT-
17 ABILITY.—To reduce the potential threat of market
18 manipulation or congestion, especially during trading
19 in the delivery month, the board of trade shall adopt
20 position limitations or position accountability for
21 speculators, where necessary and appropriate.

22 “(6) EMERGENCY AUTHORITY.—The board of
23 trade shall adopt rules to provide for the exercise of
24 emergency authority, in consultation or cooperation

1 with the Commission, where necessary and appro-
2 priate, including the authority to—

3 “(A) liquidate or transfer open positions in
4 any contract;

5 “(B) suspend or curtail trading in any con-
6 tract; and

7 “(C) require market participants in any
8 contract to meet special margin requirements.

9 “(7) AVAILABILITY OF GENERAL INFORMA-
10 TION.—The board of trade shall make available to
11 market authorities, market participants, and the
12 public information concerning—

13 “(A) the terms and conditions of the con-
14 tracts of the contract market; and

15 “(B) the mechanisms for executing trans-
16 actions on or through the facilities of the con-
17 tract market.

18 “(8) DAILY PUBLICATION OF TRADING INFOR-
19 MATION.—The board of trade shall make public
20 daily information on settlement prices, volume, open
21 interest, and opening and closing ranges for actively
22 traded contracts on the contract market.

23 “(9) EXECUTION OF TRANSACTIONS.—The
24 board of trade shall provide a competitive, open, and

1 efficient market and mechanism for executing trans-
2 actions.

3 “(10) TRADE INFORMATION.—The board of
4 trade shall maintain rules and procedures to provide
5 for the recording and safe storage of all identifying
6 trade information in a manner that enables the con-
7 tract market to use the information for purposes of
8 assisting in the prevention of customer and market
9 abuses and providing evidence of any violations of
10 the rules of the contract market.

11 “(11) FINANCIAL INTEGRITY OF CONTRACTS.—
12 The board of trade shall establish and enforce rules
13 providing for the financial integrity of any contracts
14 traded on the contract market, including rules to en-
15 sure the financial integrity of any futures commis-
16 sion merchants and introducing brokers and the pro-
17 tection of customer funds.

18 “(12) PROTECTION OF MARKET PARTICI-
19 PANTS.—The board of trade shall establish and en-
20 force rules to protect market participants from abu-
21 sive practices committed by any party acting as an
22 agent for the participants.

23 “(13) DISPUTE RESOLUTION.—The board of
24 trade shall establish and enforce rules regarding and
25 provide facilities for alternative dispute resolution as

1 appropriate for market participants and any market
2 intermediaries.

3 “(14) GOVERNANCE FITNESS STANDARDS.—
4 The board of trade shall establish and enforce ap-
5 propriate fitness standards for directors, members of
6 any disciplinary committee, members of the contract
7 market, and any other persons with direct access to
8 the facility (including any parties affiliated with any
9 of the persons described in this paragraph).

10 “(15) CONFLICTS OF INTEREST.—The board of
11 trade shall establish and enforce rules to minimize
12 conflicts of interest in the decisionmaking process of
13 the contract market and establish a process for re-
14 solving such conflicts of interest.

15 “(16) COMPOSITION OF BOARDS OF MUTUALLY
16 OWNED CONTRACT MARKETS.—In the case of a mu-
17 tually owned contract market, the board of trade
18 shall ensure that the composition of the governing
19 board reflects market participants.

20 “(17) RECORDKEEPING.—The board of trade
21 shall—

22 “(A) maintain full records of all activities
23 related to the business of the contract market
24 in a form and manner acceptable to the Com-
25 mission for a period of at least 5 years;

1 “(B) make the records readily available
2 during at least the first 2 years of the 5-year
3 period and provide the records to the Commis-
4 sion at the expense of the person required to
5 maintain the records; and

6 “(C) keep the records open to inspection
7 by any representative of the Commission or the
8 Department of Justice.

9 “(18) ANTITRUST CONSIDERATIONS.—Unless
10 necessary or appropriate to achieve the purposes of
11 this Act, the board of trade shall not—

12 “(A) adopt any rules or taking any actions
13 that result in any unreasonable restraints of
14 trade; or

15 “(B) impose any material anticompetitive
16 burden on trading on the contract market.

17 “(e) CURRENT AGRICULTURAL AND METAL COM-
18 MODITIES.—

19 “(1) Subject to paragraph (2), a contract for
20 purchase or sale for future delivery of an agricul-
21 tural or metal commodity enumerated in section
22 1a(3) that is available for trade on a contract mar-
23 ket, as of the date of the enactment of this sub-
24 section, may be traded only on a contract market
25 designated under this section.

1 “(2) In order to promote responsible economic
2 or financial innovation and fair competition, the
3 Commission, on application by any person, after no-
4 tice and public comment and opportunity for hear-
5 ing, may prescribe rules and regulations to provide
6 for the offer and sale of contracts for future delivery
7 or options thereon to be conducted on a derivatives
8 transaction execution facility.”.

9 **SEC. 111. DERIVATIVES TRANSACTION EXECUTION FACILI-**
10 **TIES.**

11 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
12 is amended by inserting after section 5 (as amended by
13 section 110(2)) the following:

14 **“SEC. 5a. DERIVATIVES TRANSACTION EXECUTION FACILI-**
15 **TIES.**

16 “(a) IN GENERAL.—In lieu of compliance with the
17 contract market designation requirements of section 5, a
18 board of trade may elect to operate as a registered deriva-
19 tives transaction execution facility if the facility is—

20 “(1) designated as a contract market and meets
21 the requirements of this section; or

22 “(2) registered as a derivatives transaction exe-
23 cution facility under subsection (c).

24 “(b) REQUIREMENTS FOR TRADING FUTURES CON-
25 TRACTS OR OTHER DERIVATIVES TRANSACTIONS.—

1 “(1) IN GENERAL.—A registered derivatives
2 transaction execution facility under subsection (a)
3 may trade any futures contract (or option on such
4 a contract) on or through the facility only by satis-
5 fying the requirements of this section.

6 “(2) REQUIREMENTS FOR UNDERLYING COM-
7 MODITIES.—A registered derivatives transaction exe-
8 cution facility may trade any futures contract only
9 if—

10 “(A) the underlying commodity has a near-
11 ly inexhaustible deliverable supply;

12 “(B) the underlying commodity has a de-
13 liverable supply that is sufficiently large that
14 the contract is not readily susceptible to manip-
15 ulation;

16 “(C) the underlying commodity has no
17 cash market; or

18 “(D) the Commission determines, based on
19 the market characteristics, surveillance history,
20 self-regulatory record, or capacity of the facility
21 that trading in the futures contract is not read-
22 ily susceptible to manipulation.

23 “(3) ELIGIBLE TRADERS.—To trade on a reg-
24 istered derivatives transaction execution facility, a
25 person shall—

1 “(A) be authorized by the board of trade
2 to trade on the facility; and

3 “(B)(i) be an eligible contract participant;
4 or

5 “(ii) be a person trading through a futures
6 commission merchant that—

7 “(I) is registered with the Commis-
8 sion;

9 “(II) is a member of a futures self-
10 regulatory organization;

11 “(III) is a clearing member of a de-
12 rivatives clearing organization; and

13 “(IV) has net capital of at least
14 \$20,000,000.

15 “(4) TRADING BY CONTRACT MARKETS.—A
16 board of trade that is designated as a contract mar-
17 ket shall, to the extent that the contract market also
18 operates a registered derivatives transaction execu-
19 tion facility—

20 “(A) provide a physical location for the
21 contract market trading of the board of trade
22 that is separate from trading on the derivatives
23 transaction execution facility of the board of
24 trade; or

1 “(B) if the board of trade uses the same
2 electronic trading system for trading on the
3 contract market and derivatives transaction
4 execution facility of the board of trade, identify
5 whether the electronic trading is taking place
6 on the contract market or the derivatives trans-
7 action execution facility.

8 “(5) IMPERMISSIBLE PRODUCTS.—It shall be
9 unlawful for any person to execute or trade a secu-
10 rity future product or other future involving a secu-
11 rity, except an exempt security as defined in section
12 3(a)(12) of the Securities Exchange Act of 1934 as
13 in effect on the date of enactment of the Futures
14 Trading Act of 1982, on a designated transaction
15 execution facility.

16 “(c) CRITERIA FOR REGISTRATION.—

17 “(1) IN GENERAL.—To be registered as a reg-
18 istered derivatives transaction execution facility, the
19 board of trade shall demonstrate to the Commission
20 that the board of trade meets the criteria specified
21 in this subsection.

22 “(2) DETERRENCE OF ABUSES.—The board of
23 trade shall establish and enforce trading rules that
24 will deter abuses and has the capacity to detect, in-

1 vestigate, and enforce those rules, including means
2 to—

3 “(A) obtain information necessary to per-
4 form the functions required under this section;
5 or

6 “(B) use technological means to—

7 “(i) provide market participants with
8 impartial access to the market; and

9 “(ii) capture information that may be
10 used in establishing whether rule violations
11 have occurred.

12 “(3) TRADING PROCEDURES.—The board of
13 trade shall establish and enforce rules or terms and
14 conditions defining, or specifications detailing, trad-
15 ing procedures to be used in entering and executing
16 orders traded on the facilities of the board of trade.
17 Such rules may authorize—

18 “(A) an exchange of—

19 “(i) futures in connection with a cash
20 commodity transaction;

21 “(ii) futures for cash commodities;

22 “(iii) transfer trades or office trades;

23 or

24 “(iv) futures for swaps; and

1 “(B) a futures commission merchant, act-
2 ing as principal or agent, to enter into or con-
3 firm the execution of a contract for the pur-
4 chase or sale of a commodity for future delivery
5 if the contract is reported, recorded, or cleared
6 in accordance with the rules of the registered
7 derivatives transaction execution facility or a
8 derivatives clearing organization.

9 “(4) FINANCIAL INTEGRITY OF TRANS-
10 ACTIONS.—The board of trade shall establish and
11 enforce rules or terms and conditions providing for
12 the financial integrity of transactions entered on or
13 through the facilities of the board of trade, including
14 rules or terms and conditions to ensure the financial
15 integrity of any futures commission merchants and
16 introducing brokers and the protection of customer
17 funds.

18 “(d) CORE PRINCIPLES FOR REGISTERED DERIVA-
19 TIVES TRANSACTION EXECUTION FACILITIES.—

20 “(1) IN GENERAL.—To maintain the registra-
21 tion of a board of trade as a derivatives transaction
22 execution facility, a board of trade shall comply with
23 the core principles specified in this subsection.

24 “(2) COMPLIANCE WITH RULES.—The board of
25 trade shall monitor and enforce the rules of the fa-

1 cility, including any terms and conditions of any
2 contracts traded on or through the facility and any
3 limitations on access to the facility.

4 “(3) MONITORING OF TRADING.—The board of
5 trade shall monitor trading in the contracts of the
6 facility to ensure orderly trading in the contract and
7 to maintain an orderly market while providing any
8 necessary trading information to the Commission to
9 allow the Commission to discharge the responsibil-
10 ities of the Commission under the Act.

11 “(4) DISCLOSURE OF GENERAL INFORMA-
12 TION.—The board of trade shall disclose publicly
13 and to the Commission information concerning—

14 “(A) contract terms and conditions;

15 “(B) trading conventions, mechanisms, and
16 practices;

17 “(C) financial integrity protections; and

18 “(D) other information relevant to partici-
19 pation in trading on the facility.

20 “(5) DAILY PUBLICATION OF TRADING INFOR-
21 MATION.—The board of trade shall make public
22 daily information on settlement prices, volume, open
23 interest, and opening and closing ranges for actively
24 traded contracts on the facility.

1 “(6) FITNESS STANDARDS.—The board of trade
2 shall establish and enforce appropriate fitness stand-
3 ards for directors, members of any disciplinary com-
4 mittee, members, and any other persons with direct
5 access to the facility, including any parties affiliated
6 with any of the persons described in this paragraph.

7 “(7) CONFLICTS OF INTEREST.—The board of
8 trade shall establish and enforce rules to minimize
9 conflicts of interest in the decisionmaking process of
10 the derivatives transaction execution facility and es-
11 tablish a process for resolving such conflicts of inter-
12 est.

13 “(8) RECORDKEEPING.—The board of trade
14 shall—

15 “(A) maintain full records of all activities
16 related to the business of the derivatives trans-
17 action execution facility in a form and manner
18 acceptable to the Commission for a period of at
19 least 5 years;

20 “(B) make the records readily available
21 during at least the first 2 years of the 5-year
22 period and provide the records to the Commis-
23 sion at the expense of the person required to
24 maintain the records; and

1 “(C) keep the records open to inspection
2 by any representatives of the Commission or the
3 Department of Justice.

4 “(9) ANTITRUST CONSIDERATIONS.—Unless
5 necessary or appropriate to achieve the purposes of
6 this Act, the board of trade shall not—

7 “(A) adopt any rules or take any actions
8 that result in any unreasonable restraint of
9 trade; or

10 “(B) impose any material anticompetitive
11 burden on trading on the derivatives trans-
12 action execution facility.

13 “(e) USE OF BROKER-DEALERS, DEPOSITORY INSTI-
14 TUTIONS, AND FARM CREDIT SYSTEM INSTITUTIONS AS
15 INTERMEDIARIES.—

16 “(1) IN GENERAL.—A registered derivatives
17 transaction execution facility may by rule allow a
18 broker-dealer, depository institution, or institution of
19 the Farm Credit System that meets the require-
20 ments of paragraph (2) to—

21 “(A) act as an intermediary in trans-
22 actions executed on the facility on behalf of cus-
23 tomers of the broker-dealer, depository institu-
24 tion, or institution of the Farm Credit System;
25 and

1 “(B) receive funds of customers to serve as
2 margin or security for such transactions.

3 “(2) REQUIREMENTS.—The requirements re-
4 ferred to in paragraph (1) are that—

5 “(A) the broker-dealer be in good standing
6 with the Securities and Exchange Commission,
7 or the depository institution or institution of
8 the Farm Credit System be in good standing
9 with Federal bank regulatory agencies (includ-
10 ing the Farm Credit Administration), as appli-
11 cable; and

12 “(B) if the broker-dealer, depository insti-
13 tution, or institution of the Farm Credit Sys-
14 tem carries or holds customer accounts or funds
15 for transactions on the derivatives transaction
16 execution facility for more than 1 business day,
17 the broker-dealer, depository institution, or in-
18 stitution of the Farm Credit System is reg-
19 istered as a futures commission merchant and
20 is a member of a registered futures association.

21 “(3) IMPLEMENTATION.—The Commission shall
22 cooperate and coordinate with the Securities and Ex-
23 change Commission, the Secretary of the Treasury,
24 and Federal banking regulatory agencies (including
25 the Farm Credit Administration) in adopting rules

1 and taking any other appropriate action to facilitate
2 the implementation of this subsection.

3 “(f) SEGREGATION OF CUSTOMER FUNDS.—Not
4 later than 180 days after the effective date of the Com-
5 modity Futures Modernization Act of 2000, consistent
6 with regulations adopted by the Commission, a registered
7 derivatives transaction execution facility may authorize a
8 futures commission merchant to offer any customer of the
9 futures commission merchant that is an eligible contract
10 participant the right to not segregate the customer funds
11 of the futures commission merchant for purposes of trad-
12 ing on or through the facilities of the registered derivatives
13 transaction execution facility.

14 “(g) ELECTION TO TRADE EXCLUDED COMMOD-
15 ITIES.—

16 “(1) IN GENERAL.—A board of trade that is a
17 registered derivatives transaction execution facility
18 may trade on the facility any agreements, contracts,
19 or transactions involving excluded commodities other
20 than securities, except exempt securities under sec-
21 tion 3(a)(12) of the Securities Exchange Act of
22 1934 as in effect on the date of enactment of the
23 Futures Trading Act of 1982, that are otherwise ex-
24 cluded or exempt from this Act under section 2(c),
25 2(d), or 2(h). Notwithstanding section 5a(b)(2), a

1 board of trade on which agreements, contracts, or
2 transactions excluded or exempt from this Act under
3 section 2(c), 2(d), or 2(h) are traded may elect, but
4 shall not be required, to register as a derivatives
5 transaction execution facility with respect to such
6 agreements, contracts, or transactions, other than
7 any agreement, contract, or transaction in a security
8 other than such an exempt security.

9 “(2) EXCLUSIVE JURISDICTION OF THE COM-
10 MISSION.—The Commission shall have exclusive ju-
11 risdiction over agreements, contracts, or transactions
12 described in paragraph (1) to the extent that the
13 agreements, contracts, or transactions are traded on
14 a derivatives transaction execution facility.”.

15 **SEC. 112. DERIVATIVES CLEARING ORGANIZATIONS.**

16 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
17 is amended by inserting after section 5a (as added by sec-
18 tion 111) the following:

19 **“SEC. 5b. DERIVATIVES CLEARING ORGANIZATIONS.**

20 “(a) REGISTRATION REQUIREMENT.—Except as pro-
21 vided in subsection (b), it shall be unlawful for a deriva-
22 tives clearing organization, unless registered with the
23 Commission, directly or indirectly to make use of the mails
24 or any means or instrumentality of interstate commerce

1 to perform the functions of a derivatives clearing organiza-
2 tion described in section 1a(8).

3 “(b) EXCLUSION OF DERIVATIVES CLEARING ORGA-
4 NIZATIONS SUBJECT TO OTHER REGULATORY AUTHORI-
5 TIES.—A derivatives clearing organization shall not be re-
6 quired to register with the Commission, and the Commis-
7 sion shall have no jurisdiction with respect to the deriva-
8 tives clearing organization, if the derivatives clearing
9 organization—

10 “(1)(A) is registered as a clearing agency under
11 the Securities Exchange Act of 1934 (15 U.S.C. 78a
12 et seq.);

13 “(B) is subject to the supervisory jurisdiction of
14 a Federal banking agency (as defined in section 3 of
15 the Federal Deposit Insurance Act (12 U.S.C.
16 1813)) or the National Credit Union Administration;
17 or

18 “(C) is subject to the supervisory jurisdiction of
19 a foreign regulatory authority that is recognized by
20 the Securities and Exchange Commission, the Board
21 of Governors of the Federal Reserve System, the
22 Comptroller of the Currency, or the Commission as
23 overseeing a system of consolidated supervision com-
24 parable to that provided under applicable United
25 States law; and

1 “(2) does not clear—

2 “(A) a contract of sale for future delivery
3 that is not a security future product;

4 “(B) an option on a contract of sale for fu-
5 ture delivery that is not a security future prod-
6 uct; or

7 “(C) an option on a commodity that is not
8 a security.

9 “(c) VOLUNTARY REGISTRATION.—A derivatives
10 clearing organization that is not exempt from registration
11 under subsection (b) may register with the Commission
12 as a derivatives clearing organization.

13 “(d) REGISTRATION OF DERIVATIVES CLEARING OR-
14 GANIZATIONS.—

15 “(1) APPLICATION.—A person desiring to reg-
16 ister as a derivatives clearing organization shall sub-
17 mit to the Commission an application in such form
18 and containing such information as the Commission
19 may require for the purpose of making the deter-
20 minations required for approval under paragraph
21 (2).

22 “(2) CORE PRINCIPLES.—

23 “(A) IN GENERAL.—To be registered and
24 to maintain registration as a derivatives clear-
25 ing organization, an applicant shall demonstrate

1 to the Commission that the applicant complies
2 with the core principles specified in this para-
3 graph.

4 “(B) FINANCIAL RESOURCES.—The appli-
5 cant shall demonstrate that the applicant has
6 adequate financial, operational, and managerial
7 resources to discharge the responsibilities of a
8 derivatives clearing organization without inter-
9 ruption in various market conditions.

10 “(C) PARTICIPANT AND PRODUCT ELIGI-
11 BILITY.—The applicant shall establish—

12 “(i) appropriate admission and con-
13 tinuing eligibility standards (including ap-
14 propriate minimum financial requirements)
15 for members of and participants in the or-
16 ganization; and

17 “(ii) appropriate standards for deter-
18 mining eligibility of agreements, contracts,
19 or transactions submitted to the applicant.

20 “(D) RISK MANAGEMENT.—The applicant
21 shall have the ability to manage the risks asso-
22 ciated with discharging the responsibilities of a
23 derivatives clearing organization through the
24 use of appropriate tools and procedures.

1 “(E) SETTLEMENT PROCEDURES.—The
2 applicant shall have the ability to—

3 “(i) complete settlements on a timely
4 basis under varying circumstances;

5 “(ii) maintain an adequate record of
6 the flow of funds associated with each
7 transaction that the applicant clears; and

8 “(iii) comply with the terms and con-
9 ditions of any permitted netting or offset
10 arrangements with other clearing organiza-
11 tions.

12 “(F) TREATMENT OF FUNDS.—The appli-
13 cant shall have standards and procedures de-
14 signed to protect and ensure the safety of mem-
15 ber and participant funds.

16 “(G) DEFAULT RULES AND PROCE-
17 DURES.—The applicant shall have rules and
18 procedures designed to allow for efficient, fair,
19 and safe management of events when members
20 or participants become insolvent or otherwise
21 default on their obligations to the derivatives
22 clearing organization.

23 “(H) RULE ENFORCEMENT.—The appli-
24 cant shall—

1 “(i) maintain adequate arrangements
2 and resources for the effective monitoring
3 and enforcement of compliance with rules
4 of the applicant and for resolution of dis-
5 putes; and

6 “(ii) have the authority and ability to
7 discipline, limit, suspend, or terminate a
8 member’s or participant’s activities for vio-
9 lations of rules of the applicant.

10 “(I) SYSTEM SAFEGUARDS.—The applicant
11 shall demonstrate that the applicant—

12 “(i) has established and will maintain
13 a program of oversight and risk analysis to
14 ensure that the automated systems of the
15 applicant function properly and have ade-
16 quate capacity and security; and

17 “(ii) has established and will maintain
18 emergency procedures and a plan for dis-
19 aster recovery, and will periodically test
20 backup facilities sufficient to ensure daily
21 processing, clearing, and settlement of
22 transactions.

23 “(J) REPORTING.—The applicant shall
24 provide to the Commission all information nec-
25 essary for the Commission to conduct the over-

1 sight function of the applicant with respect to
2 the activities of the derivatives clearing organi-
3 zation.

4 “(K) RECORDKEEPING.—The applicant
5 shall—

6 “(i) maintain full records of all activi-
7 ties related to the business of the applicant
8 as a derivatives clearing organization in a
9 form and manner acceptable to the Com-
10 mission for a period of at least 5 years;

11 “(ii) make the records readily avail-
12 able during at least the first 2 years of the
13 5-year period and provide the records to
14 the Commission at the expense of the per-
15 son required to maintain the records; and

16 “(iii) keep the records open to inspec-
17 tion by any representative of the Commis-
18 sion or the Department of Justice.

19 “(L) PUBLIC INFORMATION.—The appli-
20 cant shall make information concerning the
21 rules and operating procedures governing the
22 clearing and settlement systems (including de-
23 fault procedures) available to market partici-
24 pants.

1 “(M) INFORMATION SHARING.—The appli-
2 cant shall—

3 “(i) enter into and abide by the terms
4 of all appropriate and applicable domestic
5 and international information-sharing
6 agreements; and

7 “(ii) use relevant information obtained
8 from the agreements in carrying out the
9 clearing organization’s risk management
10 program.

11 “(N) ANTITRUST CONSIDERATIONS.—Un-
12 less necessary or appropriate to achieve the
13 purposes of this Act, the derivatives clearing or-
14 ganization shall not—

15 “(i) adopt any rule or take any action
16 that results in any unreasonable restraint
17 of trade; or

18 “(ii) impose any material anticompeti-
19 tive burden on trading on the contract
20 market.

21 “(3) ORDERS CONCERNING COMPETITION.—A
22 derivatives clearing organization may request the
23 Commission to issue an order concerning whether a
24 rule or practice of the applicant is the least anti-

1 competitive means of achieving the objectives, pur-
2 poses, and policies of this Act.

3 “(e) EXISTING DERIVATIVES CLEARING ORGANIZA-
4 TIONS.—A derivatives clearing organization shall be
5 deemed to be registered under this section to the extent
6 that—

7 “(1) the derivatives clearing organization clears
8 agreements, contracts, or transactions for a board of
9 trade that has been designated by the Commission
10 as a contract market for such agreements, contracts,
11 or transactions before the date of enactment of this
12 section; and

13 “(2) the Commission has reviewed and ap-
14 proved the rules of the derivatives clearing organiza-
15 tion before that date.

16 “(f) APPOINTMENT OF TRUSTEE.—

17 “(1) IN GENERAL.—If a proceeding under sec-
18 tion 5e results in the suspension or revocation of the
19 registration of a derivatives clearing organization, or
20 if a derivatives clearing organization withdraws from
21 registration, the Commission, on notice to the de-
22 rivatives clearing organization, may apply to the ap-
23 propriate United States district court where the de-
24 rivatives clearing organization is located for the ap-
25 pointment of a trustee.

1 “(2) ASSUMPTION OF JURISDICTION.—If the
2 Commission applies for appointment of a trustee
3 under paragraph (1)—

4 “(A) the court may take exclusive jurisdic-
5 tion over the derivatives clearing organization
6 and the records and assets of the derivatives
7 clearing organization, wherever located; and

8 “(B) if the court takes jurisdiction under
9 subparagraph (A), the court shall appoint the
10 Commission, or a person designated by the
11 Commission, as trustee with power to take pos-
12 session and continue to operate or terminate
13 the operations of the derivatives clearing orga-
14 nization in an orderly manner for the protection
15 of participants, subject to such terms and con-
16 ditions as the court may prescribe.

17 “(g) LINKING OF REGULATED CLEARING FACILI-
18 TIES.—

19 “(1) IN GENERAL.—The Commission shall fa-
20 cilitate the linking or coordination of derivatives
21 clearing organizations registered under this Act with
22 other regulated clearance facilities for the coordi-
23 nated settlement of cleared transactions.

24 “(2) COORDINATION.—In carrying out para-
25 graph (1), the Commission shall coordinate with the

1 Federal banking agencies and the Securities and Ex-
2 change Commission.”.

3 **SEC. 113. COMMON PROVISIONS APPLICABLE TO REG-**
4 **ISTERED ENTITIES.**

5 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
6 is amended by inserting after section 5b (as added by sec-
7 tion 112) the following:

8 **“SEC. 5c. COMMON PROVISIONS APPLICABLE TO REG-**
9 **ISTERED ENTITIES.**

10 **“(a) ACCEPTABLE BUSINESS PRACTICES UNDER**
11 **CORE PRINCIPLES.—**

12 **“(1) IN GENERAL.—**Consistent with the pur-
13 poses of this Act, the Commission may issue inter-
14 pretations, or approve interpretations submitted to
15 the Commission, of sections 5(d), 5a(d), and
16 5b(d)(2) to describe what would constitute an ac-
17 ceptable business practice under such sections.

18 **“(2) EFFECT OF INTERPRETATION.—**An inter-
19 pretation issued under paragraph (1) shall not pro-
20 vide the exclusive means for complying with such
21 sections.

22 **“(b) DELEGATION OF FUNCTIONS UNDER CORE**
23 **PRINCIPLES.—**

24 **“(1) IN GENERAL.—**A contract market or de-
25 rivatives transaction execution facility may comply

1 with any applicable core principle through delegation
2 of any relevant function to a registered futures asso-
3 ciation or another registered entity.

4 “(2) RESPONSIBILITY.—A contract market or
5 derivatives transaction execution facility that dele-
6 gates a function under paragraph (1) shall remain
7 responsible for carrying out the function.

8 “(c) NEW CONTRACTS, NEW RULES, AND RULE
9 AMENDMENTS.—

10 “(1) IN GENERAL.—Subject to paragraph (2), a
11 registered entity may elect to list for trading any
12 new contract or other instrument, or may elect to
13 approve and implement any new rule or rule amend-
14 ment, by providing to the Commission (and the Sec-
15 retary of the Treasury, in the case of a contract of
16 sale for future delivery of a government security (or
17 option thereon) or a rule or rule amendment specifi-
18 cally related to such a contract) a written certifi-
19 cation that the new contract, new rule, or rule
20 amendment complies with this Act (including regula-
21 tions under this Act).

22 “(2) PRIOR APPROVAL.—

23 “(A) IN GENERAL.—A registered entity
24 may request that the Commission grant prior

1 approval to any new contract or other instru-
2 ment, new rule, or rule amendment.

3 “(B) PRIOR APPROVAL REQUIRED.—Not-
4 withstanding any other provision of this section,
5 a designated contract market shall submit to
6 the Commission for prior approval each rule
7 amendment that materially changes the terms
8 and conditions, as determined by the Commis-
9 sion, in any contract of sale for future delivery
10 of a commodity specifically enumerated in sec-
11 tion 1a(3) of this Act (or any option thereon)
12 traded through its facilities if such rule amend-
13 ment applies to contracts and delivery months
14 which have already been listed for trading and
15 have open interest.

16 “(C) DEADLINE.—If prior approval is re-
17 quested under subparagraph (A), the Commis-
18 sion shall take final action on the request not
19 later than 90 days after submission of the re-
20 quest, unless the person submitting the request
21 agrees to an extension of the time limitation es-
22 tablished under this subparagraph.

23 “(3) APPROVAL.—The Commission shall ap-
24 prove any such new contract or instrument, new
25 rule, or rule amendment unless the Commission

1 finds that the new contract or instrument, new rule,
2 or rule amendment would violate this Act.

3 “(d) RESERVATION OF EMERGENCY AUTHORITY.—
4 Nothing in this section shall limit or in any way affect
5 the emergency powers of the Commission provided in sec-
6 tion 8a(9) of this Act.”.

7 **SEC. 114. EXEMPT BOARDS OF TRADE.**

8 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
9 is amended by inserting after section 5c (as added by sec-
10 tion 113) the following:

11 **“SEC. 5d. EXEMPT BOARDS OF TRADE.**

12 “(a) IN GENERAL.—Except as otherwise provided in
13 this section, a contract of sale (or option on such a con-
14 tract) of a commodity for future delivery traded on or
15 through the facilities of an exempt board of trade shall
16 be exempt from all provisions of this Act, other than sec-
17 tion 2(g).

18 “(b) CRITERIA FOR EXEMPTION.—To qualify for an
19 exemption under subsection (a), a board of trade shall
20 limit trading on or through the facilities of the board of
21 trade to contracts of sale of a commodity for future deliv-
22 ery (or options on such contracts)—

23 “(1) that have—

24 “(A) a nearly inexhaustible deliverable sup-
25 ply;

1 “(B) a deliverable supply that is suffi-
2 ciently large, and a cash market sufficiently liq-
3 uid, to render any contract traded on the com-
4 modity highly unlikely to be susceptible to the
5 threat of manipulation; or

6 “(C) no cash market;

7 “(2) that are entered into only between persons
8 that are eligible contract participants at the time at
9 which the persons enter into the contract; and

10 “(3) that are not contracts of sale (or options
11 on the contract) for future delivery of any security,
12 including any group or index of securities or any in-
13 terest in, or interest that is based on the value of,
14 any security.

15 “(c) ANTIMANIPULATION REQUIREMENTS.—A party
16 to a futures contract or related option that is traded on
17 an exempt board of trade shall be subject to sections 4b,
18 4o, 6(c), and 9(a)(2), and the Commission shall enforce
19 those provisions with respect to any such trading.

20 “(d) PRICE DISCOVERY.—If the Commission finds
21 that an exempt board of trade is a significant source of
22 price discovery for any underlying commodity in any
23 transaction traded on or through the facilities of the board
24 of trade, the board of trade shall disseminate publicly on
25 a daily basis trading volume, opening and closing price

1 ranges, open interest, and other trading data as appro-
2 priate to the market.

3 “(e) JURISDICTION.—The Commission shall have ex-
4 clusive jurisdiction over any account, agreement, or trans-
5 action involving a contract of sale of a commodity, or re-
6 lated option, to the extent that such account, agreement,
7 or transaction is traded on an exempt board of trade.

8 “(f) SUBSIDIARIES.—A board of trade that is des-
9 igned as a contract market or registered as a derivatives
10 transaction execution facility may operate an exempt
11 board of trade by establishing a separate subsidiary or
12 other legal entity and otherwise satisfying the require-
13 ments of this section.”.

14 **SEC. 115. SUSPENSION OR REVOCATION OF DESIGNATION**
15 **AS CONTRACT MARKET.**

16 Section 5e of the Commodity Exchange Act (7 U.S.C.
17 7b) (as redesignated by section 110(1)) is amended to
18 read as follows:

19 **“SEC. 5e. SUSPENSION OR REVOCATION OF DESIGNATION**
20 **AS REGISTERED ENTITY.**

21 “The failure of a registered entity to comply with any
22 provision of this Act, or any regulation or order of the
23 Commission under this Act, shall be cause for the suspen-
24 sion of the registered entity for a period not to exceed 180
25 days, or revocation of designation as a registered entity

1 in accordance with the procedures and subject to the judi-
2 cial review provided in section 6(b).”.

3 **SEC. 116. AUTHORIZATION OF APPROPRIATIONS.**

4 Section 12(d) of the Commodity Exchange Act (7
5 U.S.C. 16(d)) is amended by striking “2000” and insert-
6 ing “2005”.

7 **SEC. 117. PREEMPTION.**

8 Section 12(e) of the Commodity Exchange Act (7
9 U.S.C. 16(e)) is amended by striking paragraph (2) and
10 inserting the following:

11 “(2) the application of any Federal or State law
12 (including any regulation) to an agreement, contract,
13 or transaction in or involving any commodity, prod-
14 uct, right, service, or interest, except that this Act
15 shall supersede and preempt—

16 “(A) in the case of any such agreement,
17 contract, or transaction—

18 “(i) that is conducted on or subject to
19 the rules of a registered entity or exempt
20 board of trade;

21 “(ii) that is conducted on or subject
22 to the rules of any board of trade, ex-
23 change, or market located outside the
24 United States, or any territory or posses-
25 sion of the United States (in accordance

1 with any terms or conditions specified by
2 the Commission by regulation); or

3 “(iii) that is subject to regulation by
4 the Commission under section 4e or 19;
5 and

6 “(B) any State or local law that prohibits
7 or regulates gaming or the operation of bucket
8 shops (other than antifraud provisions of gen-
9 eral applicability) in the case of—

10 “(i) an electronic trading facility
11 under section 2(e); or

12 “(ii) an agreement, contract, or trans-
13 action that is excluded or exempt under
14 section 2(c), 2(d), 2(f), or 2(h) or is cov-
15 ered by the terms of an exemption granted
16 by the Commission under section 4(c) (re-
17 gardless of whether any such agreement,
18 contract, or transaction is otherwise sub-
19 ject to this Act); or”.

20 **SEC. 118. CONSIDERATION OF COSTS AND BENEFITS AND**
21 **ANTITRUST LAWS.**

22 Section 15 of the Commodity Exchange Act (7 U.S.C.
23 19) is amended by striking “SEC. 15. The Commission”
24 and inserting the following:

1 **“SEC. 15. CONSIDERATION OF COSTS AND BENEFITS AND**
2 **ANTITRUST LAWS.**

3 “(a) COSTS AND BENEFITS.—

4 “(1) IN GENERAL.—Before promulgating a reg-
5 ulation under this Act or issuing an order (except as
6 provided in paragraph (3)), the Commission shall
7 consider the costs and benefits of the action of the
8 Commission.

9 “(2) CONSIDERATIONS.—The costs and benefits
10 of the proposed Commission action shall be evalu-
11 ated in light of—

12 “(A) considerations of protection of market
13 participants and the public;

14 “(B) considerations of the efficiency, com-
15 petitiveness, and financial integrity of futures
16 markets;

17 “(C) considerations of price discovery;

18 “(D) considerations of sound risk manage-
19 ment practices; and

20 “(E) other public interest considerations.

21 “(3) APPLICABILITY.—This subsection does not
22 apply to the following actions of the Commission:

23 “(A) An order that initiates, is part of, or
24 is the result of an adjudicatory or investigative
25 process of the Commission.

26 “(B) An emergency action.

1 “(C) A finding of fact regarding compli-
2 ance with a requirement of the Commission.

3 “(b) ANTITRUST LAWS.—The Commission”.

4 **SEC. 119. CONTRACT ENFORCEMENT BETWEEN ELIGIBLE**
5 **COUNTERPARTIES.**

6 Section 22(a) of the Commodity Exchange Act (7
7 U.S.C. 25(a)) is amended by adding at the end the fol-
8 lowing:

9 “(4) CONTRACT ENFORCEMENT BETWEEN ELIGIBLE
10 COUNTERPARTIES.—No agreement, contract, or trans-
11 action a party to which is reasonably believed by another
12 party to which to be an eligible contract participant shall
13 be void, voidable, or unenforceable, and no such reason-
14 ably believed eligible contract participant shall be entitled
15 to rescind, or recover any payment made with respect to,
16 such an agreement, contract, or transaction, under this
17 section based solely on the failure of the agreement, con-
18 tract, or transaction to comply with the terms or condi-
19 tions of an exemption or exclusion from any provision of
20 this Act or regulations of the Commission.”.

21 **SEC. 120. SPECIAL PROCEDURES TO ENCOURAGE AND FA-**
22 **CILITATE BONA FIDE HEDGING BY AGRICUL-**
23 **TURAL PRODUCERS.**

24 The Commodity Exchange Act is amended by insert-
25 ing after section 4p the following:

1 **“SEC. 4q. SPECIAL PROCEDURES TO ENCOURAGE AND FA-**
2 **CILITATE BONA FIDE HEDGING BY AGRICUL-**
3 **TURAL PRODUCERS.**

4 “(a) AUTHORITY.—The Commission shall consider
5 issuing rules or orders which—

6 “(1) prescribe procedures under which each
7 contract market is to provide for orderly delivery, in-
8 cluding temporary storage costs, of any agricultural
9 commodity enumerated in section 1a(3) which is the
10 subject of a contract for purchase or sale for future
11 delivery;

12 “(2) increase the ease with which domestic agri-
13 cultural producers may participate in contract mar-
14 kets, including by addressing cost and margin re-
15 quirements, so as to better enable such producers to
16 hedge price risk associated with their production;

17 “(3) provide flexibility in the minimum quan-
18 tities of such agricultural commodities that may be
19 the subject of a contract for purchase or sale for fu-
20 ture delivery that is traded on a contract market, to
21 better allow domestic agricultural producers to hedge
22 such price risk; and

23 “(4) encourage exchanges to provide informa-
24 tion and otherwise facilitate the participation of do-
25 mestic agricultural producers in contract markets.

1 “(b) REPORT.—Within 1 year after the date of enact-
2 ment of this section, the Commission shall submit to the
3 Committee on Agriculture of the House of Representatives
4 and the Committee on Agriculture, Nutrition, and For-
5 estry of the Senate a report on the steps it has taken to
6 implement this section and on the activities of contract
7 markets pursuant to this section.”.

8 **SEC. 121. RULE OF CONSTRUCTION.**

9 Except as expressly provided in this title or an
10 amendment made by this title, nothing in this title or an
11 amendment made by this title supersedes, affects, or oth-
12 erwise limits or expands the scope and applicability of laws
13 governing the Securities and Exchange Commission.

14 **SEC. 122. TECHNICAL AND CONFORMING AMENDMENTS.**

15 (a) COMMODITY EXCHANGE ACT.—

16 (1) Section 1a of the Commodity Exchange Act
17 (7 U.S.C. 1a) is amended—

18 (A) in paragraphs (4), (5), (8), (9), (12),
19 and (14), by inserting “or derivatives trans-
20 action execution facility” after “contract mar-
21 ket” each place it appears; and

22 (B) in paragraph (15)—

23 (i) in the paragraph heading, by strik-
24 ing “CONTRACT MARKET” and inserting
25 “REGISTERED ENTITY”; and

1 (ii) by striking “contract market”
2 each place it appears and inserting “reg-
3 istered entity”.

4 (2) Section 2 of the Commodity Exchange Act
5 (7 U.S.C. 2, 2a, 4, 4a, 3) is amended—

6 (A) by striking “SEC. 2. (a)(1)(A)(i) The”
7 and inserting the following:

8 **“SEC. 2. JURISDICTION OF COMMISSION; LIABILITY OF**
9 **PRINCIPAL FOR ACT OF AGENT; COMMODITY**
10 **FUTURES TRADING COMMISSION; TRANS-**
11 **ACTION IN INTERSTATE COMMERCE.**

12 “(a) JURISDICTION OF COMMISSION; COMMODITY
13 FUTURES TRADING COMMISSION.—

14 “(1) JURISDICTION OF COMMISSION.—

15 “(A) IN GENERAL.—The”;

16 (B) in subsection (a)(1)(A) (as amended
17 by subparagraph (A) of this paragraph)—

18 (i) by striking “subparagraph (B) of
19 this paragraph” and inserting “subpara-
20 graphs (C) and (D) of this paragraph and
21 subsections (c), (d), (e), (f), (g), and (h) of
22 this section”;

23 (ii) by striking “contract market des-
24 ignated pursuant to section 5 of this Act”
25 and inserting “contract market designated

1 or derivatives transaction execution facility
2 registered pursuant to section 5 or 5a”;
3 (iii) by striking clause (ii); and
4 (iv) in clause (iii), by striking “(iii)
5 The” and inserting the following:
6 “(B) LIABILITY OF PRINCIPAL FOR ACT OF
7 AGENT.—The”; and
8 (C) in subsection (a)(1)(B)—
9 (i) by striking “(B)” and inserting
10 “(C)”;
11 (ii) in clause (iv), by striking “(I)”
12 and all that follows through “(II)”;
13 (iii) in clause (v), by inserting “or
14 subparagraph (D)” after “subparagraph”;
15 and
16 (iv) by moving clauses (i) through (v)
17 4 ems to the right;
18 (D) in subsection (a)(7), by striking “con-
19 tract market” and inserting “registered entity”;
20 (E) in subsection (a)(8)(B)(ii)—
21 (i) in the first sentence, by striking
22 “designation as a contract market” and in-
23 serting “designation or registration as a
24 contract market or derivatives transaction
25 execution facility”;

1 (ii) in the second sentence, by striking
2 “designate a board of trade as a contract
3 market” and inserting “designate or reg-
4 ister a board of trade as a contract market
5 or derivatives transaction execution facil-
6 ity”; and

7 (iii) in the fourth sentence, by striking
8 “designating, or refusing, suspending, or
9 revoking the designation of, a board of
10 trade as a contract market involving trans-
11 actions for future delivery referred to in
12 this clause or in considering possible emer-
13 gency action under section 8a(9) of this
14 Act” and inserting “designating, reg-
15 istering, or refusing, suspending, or revok-
16 ing the designation or registration of, a
17 board of trade as a contract market or de-
18 rivatives transaction execution facility in-
19 volving transactions for future delivery re-
20 ferred to in this clause or in considering
21 any possible action under this Act (includ-
22 ing without limitation emergency action
23 under section 8a(9))”, and by striking
24 “designation, suspension, revocation, or
25 emergency action” and inserting “designa-

1 tion, registration, suspension, revocation,
2 or action”; and

3 (F) in subsection (a), by moving para-
4 graphs (2) through (9) 2 ems to the right.

5 (3) Section 4 of the Commodity Exchange Act
6 (7 U.S.C. 6) is amended—

7 (A) in subsection (a)—

8 (i) in paragraph (1), by striking “des-
9 ignated by the Commission as a ‘contract
10 market’ for” and inserting “designated or
11 registered by the Commission as a contract
12 market or derivatives transaction execution
13 facility for”;

14 (ii) in paragraph (2), by striking
15 “member of such”; and

16 (iii) in paragraph (3), by inserting “or
17 derivatives transaction execution facility”
18 after “contract market”; and

19 (B) in subsection (c)—

20 (i) in paragraph (1)—

21 (I) by striking “designated as a
22 contract market” and inserting “des-
23 ignated or registered as a contract
24 market or derivatives transaction exe-
25 cution facility”; and

1 (II) by striking “section
2 2(a)(1)(B)” and inserting “sections
3 2(a)(1)(C) and 2(a)(1)(D)”;
4 (ii) in paragraph (2)(B)(ii), by insert-
5 ing “or derivatives transaction execution
6 facility” after “contract market”.

7 (4) Section 4a of the Commodity Exchange Act
8 (7 U.S.C. 6a) is amended—

9 (A) in subsection (a)—

10 (i) in the first sentence, by inserting
11 “or derivatives transaction execution facili-
12 ties” after “contract markets”; and

13 (ii) in the second sentence, by insert-
14 ing “or derivatives transaction execution
15 facility” after “contract market”;

16 (B) in subsection (b)—

17 (i) in paragraph (1), by inserting “, or
18 derivatives transaction execution facility or
19 facilities,” after “markets”; and

20 (ii) in paragraph (2), by inserting “or
21 derivatives transaction execution facility”
22 after “contract market”; and

23 (C) in subsection (e)—

24 (i) by striking “contract market or”
25 each place it appears and inserting “con-

1 tract market, derivatives transaction execu-
2 tion facility, or”;

3 (ii) by striking “licensed or des-
4 ignated” each place it appears and insert-
5 ing “licensed, designated, or registered”;
6 and

7 (iii) by striking “contract market, or”
8 and inserting “contract market or deriva-
9 tives transaction execution facility, or”.

10 (5) Section 4b(a) of the Commodity Exchange
11 Act (7 U.S.C. 6b(a)) is amended by striking “con-
12 tract market” each place it appears and inserting
13 “registered entity”.

14 (6) Sections 4c(g), 4d, 4e, and 4f of the Com-
15 modity Exchange Act (7 U.S.C. 6c(g), 6d, 6e, 6f)
16 are amended by inserting “or derivatives transaction
17 execution facility” after “contract market” each
18 place it appears.

19 (7) Section 4g of the Commodity Exchange Act
20 (7 U.S.C. 6g) is amended—

21 (A) in subsection (b), by striking “clear-
22 inghouse and contract market” and inserting
23 “registered entity”; and

1 (B) in subsection (f), by striking “clearing-
2 houses, contract markets, and exchanges” and
3 inserting “registered entities”.

4 (8) Section 4h of the Commodity Exchange Act
5 (7 U.S.C. 6h) is amended by striking “contract mar-
6 ket” each place it appears and inserting “registered
7 entity”.

8 (9) Section 4i of the Commodity Exchange Act
9 (7 U.S.C. 6i) is amended in the first sentence by in-
10 serting “or derivatives transaction execution facility”
11 after “contract market”.

12 (10) Section 4j(a) of the Commodity Exchange
13 Act (7 U.S.C. 6j(a)) is amended—

14 (A) in paragraph (1), by inserting “for se-
15 curity future products” after “contract mar-
16 ket”; and

17 (B) in paragraph (3), by inserting “, other
18 than a designated contract market in a security
19 future product,” after “exempt a contract mar-
20 ket”.

21 (11) Section 4l of the Commodity Exchange Act
22 (7 U.S.C. 6l) is amended by inserting “or derivatives
23 transaction execution facilities” after “contract mar-
24 kets” each place it appears.

1 (12) Section 4p of the Commodity Exchange
2 Act (7 U.S.C. 6p) is amended—

3 (A) in the third sentence of subsection (a),
4 by striking “Act or contract markets” and in-
5 serting “Act, contract markets, or derivatives
6 transaction execution facilities”; and

7 (B) in subsection (b), by inserting “deriva-
8 tives transaction execution facility,” after “con-
9 tract market,”.

10 (13) Section 6 of the Commodity Exchange Act
11 (7 U.S.C. 8, 9, 9a, 9b, 13b, 15) is amended—

12 (A) in subsection (a)—

13 (i) in the first sentence—

14 (I) by striking “board of trade
15 desiring to be designated a ‘contract
16 market’ shall make application to the
17 Commission for such designation” and
18 inserting “person desiring to be des-
19 ignated or registered as a contract
20 market or derivatives transaction exe-
21 cution facility shall make application
22 to the Commission for such designa-
23 tion or registration”;

1 (II) by striking “above condi-
2 tions” and inserting “conditions set
3 forth in this Act”; and

4 (III) by striking “above require-
5 ments” and inserting “the require-
6 ments of this Act”;

7 (ii) in the second sentence, by striking
8 “designation as a contract market within
9 one year” and inserting “designation or
10 registration as a contract market or de-
11 rivatives transaction execution facility
12 within 180 days”;

13 (iii) in the third sentence—

14 (I) by striking “board of trade”
15 and inserting “person”; and

16 (II) by striking “one-year period”
17 and inserting “180-day period”; and

18 (iv) in the last sentence, by striking
19 “designate as a ‘contract market’ any
20 board of trade that has made application
21 therefor, such board of trade” and insert-
22 ing “designate or register as a contract
23 market or derivatives transaction execution
24 facility any person that has made applica-
25 tion therefor, such person”;

1 (B) in subsection (b)—

2 (i) in the first sentence—

3 (I) by striking “designation of
4 any board of trade as a ‘contract mar-
5 ket’ upon” and inserting “designation
6 or registration of any contract market
7 or derivatives transaction execution
8 facility on”;

9 (II) by striking “board of trade”
10 each place it appears and inserting
11 “contract market or derivatives trans-
12 action execution facility”; and

13 (III) by striking “designation as
14 set forth in section 5 of this Act” and
15 inserting “designation or registration
16 as set forth in sections 5 through 5b”;

17 (ii) in the second sentence—

18 (I) by striking “board of trade”
19 the first place it appears and inserting
20 “contract market or derivatives trans-
21 action execution facility”; and

22 (II) by striking “board of trade”
23 the second and third places it appears
24 and inserting “person”; and

1 (iii) in the last sentence, by striking
2 “board of trade” each place it appears and
3 inserting “person”;

4 (C) in subsection (c)—

5 (i) by striking “contract market” each
6 place it appears and inserting “registered
7 entity”;

8 (ii) by striking “contract markets”
9 each place it appears and inserting “reg-
10 istered entities”; and

11 (iii) by striking “trading privileges”
12 each place it appears and inserting “privi-
13 leges”;

14 (D) in subsection (d), by striking “contract
15 market” each place it appears and inserting
16 “registered entity”; and

17 (E) in subsection (e), by striking “trading
18 on all contract markets” each place it appears
19 and inserting “the privileges of all registered
20 entities”.

21 (14) Section 6a of the Commodity Exchange
22 Act (7 U.S.C. 10a) is amended—

23 (A) in the first sentence of subsection (a),
24 by striking “designated as a ‘contract market’
25 shall” and inserting “designated or registered

1 as a contract market or a derivatives trans-
2 action execution facility”; and

3 (B) in subsection (b), by striking “des-
4 ignated as a contract market” and inserting
5 “designated or registered as a contract market
6 or a derivatives transaction execution facility”.

7 (15) Section 6b of the Commodity Exchange
8 Act (7 U.S.C. 13a) is amended—

9 (A) by striking “contract market” each
10 place it appears and inserting “registered enti-
11 ty”;

12 (B) in the first sentence, by striking “des-
13 ignation as set forth in section 5 of this Act”
14 and inserting “designation or registration as set
15 forth in sections 5 through 5c”; and

16 (C) in the last sentence, by striking “the
17 contract market’s ability” and inserting “the
18 ability of the registered entity”.

19 (16) Section 6c(a) of the Commodity Exchange
20 Act (7 U.S.C. 13a–1(a)) by striking “contract mar-
21 ket” and inserting “registered entity”.

22 (17) Section 6d(1) of the Commodity Exchange
23 Act (7 U.S.C. 13a–2(1)) is amended by inserting
24 “derivatives transaction execution facility,” after
25 “contract market,”.

1 (18) Section 7 of the Commodity Exchange Act
2 (7 U.S.C. 11) is amended—

3 (A) in the first sentence—

4 (i) by striking “board of trade” and
5 inserting “person”;

6 (ii) by inserting “or registered” after
7 “designated”;

8 (iii) by inserting “or registration”
9 after “designation” each place it appears;
10 and

11 (iv) by striking “contract market”
12 each place it appears and inserting “reg-
13 istered entity”;

14 (B) in the second sentence—

15 (i) by striking “designation of such
16 board of trade as a contract market” and
17 inserting “designation or registration of
18 the registered entity”; and

19 (ii) by striking “contract markets”
20 and inserting “registered entities”; and

21 (C) in the last sentence—

22 (i) by striking “board of trade” and
23 inserting “person”; and

24 (ii) by striking “designated again a
25 contract market” and inserting “des-

1 ignated or registered again a registered en-
2 tity”.

3 (19) Section 8(c) of the Commodity Exchange
4 Act (7 U.S.C. 12(c)) is amended in the first sen-
5 tence by striking “board of trade” and inserting
6 “registered entity”.

7 (20) Section 8a of the Commodity Exchange
8 Act (7 U.S.C. 12a) is amended—

9 (A) by striking “contract market” each
10 place it appears and inserting “registered enti-
11 ty”; and

12 (B) in paragraph (2)(F), by striking “trad-
13 ing privileges” and inserting “privileges”.

14 (21) Sections 8b and 8c(e) of the Commodity
15 Exchange Act (7 U.S.C. 12b, 12c(e)) are amended
16 by striking “contract market” each place it appears
17 and inserting “registered entity”.

18 (22) Section 8e of the Commodity Exchange
19 Act (7 U.S.C. 12e) is amended—

20 (A) by striking “contract market” each
21 place it appears and inserting “registered enti-
22 ty”;

23 (B) in subsection (a), by striking “section
24 5a(b)” and inserting “sections 5 through 5c”;

25 (C) in subsection (b)—

1 (i) in paragraph (1), by striking “con-
2 tract market’s trade monitoring system im-
3 plemented pursuant to section 5a(b)” and
4 inserting “the trade monitoring system of
5 a registered entity implemented pursuant
6 to sections 5 through 5c”;

7 (ii) by striking paragraph (3) and in-
8 serting the following:

9 “(3) REMEDIES.—On becoming final, the Com-
10 mission deficiency order may require the registered
11 entity to—

12 “(A) institute appropriate improvements in
13 its trade monitoring system necessary to correct
14 the deficiencies in the order;

15 “(B) satisfy stated objective performance
16 criteria to correct the deficiencies;

17 “(C) upgrade or reconfigure existing sys-
18 tems for collecting or processing relevant data
19 on trading and trader or broker activity, includ-
20 ing, where appropriate, the commitment of ad-
21 ditional resources.”; and

22 (iii) in paragraph (5)—

23 (I) in the paragraph heading, by
24 striking “DESIGNATION AS CONTRACT
25 MARKET” and inserting “DESIGNA-

1 TION OR REGISTRATION AS REG-
2 ISTERED ENTITY”;

3 (II) by inserting “or registra-
4 tion” after “designation”; and

5 (III) by striking “board of trade”
6 and inserting “person”;

7 (D) in subsection (d)(2), by striking “sec-
8 tion 5b” and inserting “section 5e”; and

9 (E) in the paragraph heading of subsection
10 (e)(2), by striking “CONTRACT MARKETS” and
11 inserting “REGISTERED ENTITIES”.

12 (23) Section 9 of the Commodity Exchange Act
13 (7 U.S.C. 13) is amended by striking “contract mar-
14 ket” each place it appears and inserting “registered
15 entity”.

16 (24) Section 14 of the Commodity Exchange
17 Act (7 U.S.C. 18) is amended—

18 (A) in subsection (a)(1)(B), by striking
19 “contract market” and inserting “registered en-
20 tity”; and

21 (B) in subsection (f), by striking “contract
22 markets” and inserting “registered entities”.

23 (25) Section 17 of the Commodity Exchange
24 Act (7 U.S.C. 21) is amended by striking “contract

1 market” each place it appears and inserting “reg-
2 istered entity”.

3 (26) Section 22 of the Commodity Exchange
4 Act (7 U.S.C. 25) is amended—

5 (A) in subsection (a)—

6 (i) in paragraph (1)—

7 (I) by striking “contract market,
8 clearing organization of a contract
9 market, licensed board of trade,” and
10 inserting “registered entity”; and

11 (II) in subparagraph (C)(i), by
12 striking “contract market” and insert-
13 ing “registered entity”;

14 (ii) in paragraph (2), by striking “sec-
15 tions 5a(11),” and inserting “sections
16 5(d)(13), 5b(b)(1)(E),”; and

17 (iii) in paragraph (3), by striking
18 “contract market” and inserting “reg-
19 istered entity”; and

20 (B) in subsection (b)—

21 (i) in paragraph (1)—

22 (I) by striking “contract market
23 or clearing organization of a contract
24 market” and inserting “registered en-
25 tity”;

1 (II) by striking “section 5a(8)
2 and section 5a(9) of this Act” and in-
3 serting “sections 5 through 5c”;

4 (III) by striking “contract mar-
5 ket, clearing organization of a con-
6 tract market, or licensed board of
7 trade” and inserting “registered enti-
8 ty”; and

9 (IV) by striking “contract market
10 or licensed board of trade” and insert-
11 ing “registered entity”;

12 (ii) in paragraph (3)—

13 (I) by striking “a contract mar-
14 ket, clearing organization, licensed
15 board of trade,” and inserting “reg-
16 istered entity”; and

17 (II) by striking “contract market,
18 licensed board of trade” and inserting
19 “registered entity”;

20 (iii) in paragraph (4), by striking
21 “contract market, licensed board of trade,
22 clearing organization,” and inserting “reg-
23 istered entity”; and

24 (iv) in paragraph (5), by striking
25 “contract market, licensed board of trade,

1 clearing organization,” and inserting “reg-
2 istered entity”.

3 (b) FEDERAL DEPOSIT INSURANCE CORPORATION
4 IMPROVEMENT ACT OF 1991.—Section 402(2) of the Fed-
5 eral Deposit Insurance Corporation Improvement Act of
6 1991 (12 U.S.C. 4402(2)) is amended by striking sub-
7 paragraph (B) and inserting the following:

8 “(B) that is registered as a derivatives
9 clearing organization under section 5b of the
10 Commodity Exchange Act.”.

11 **SEC. 123. PRIVACY.**

12 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
13 is amended by inserting after section 5f (as added by sec-
14 tion 222) the following:

15 **“SEC. 5g. PRIVACY.**

16 “(a) TREATMENT AS FINANCIAL INSTITUTIONS.—
17 Notwithstanding section 509(3)(B) of the Gramm-Leach-
18 Bliley Act, any person or entity that is subject to the juris-
19 diction of the Commission under this Act with respect to
20 any financial activity shall be treated as a financial insti-
21 tution for purposes of title V of such Act with respect to
22 such financial activity.

23 “(b) TREATMENT OF CFTC AS FEDERAL FUNC-
24 TIONAL REGULATOR.—For purposes of title V of such
25 Act, the Commodity Futures Trading Commission shall

1 be treated as a Federal functional regulator within the
2 meaning of section 509(2) of such Act and shall prescribe
3 regulations under such title within 6 months after the date
4 of enactment of this section.”.

5 **SEC. 124. REPORT TO CONGRESS.**

6 (a) The Commodity Futures Trading Commission (in
7 this section referred to as the “Commission”) shall under-
8 take and complete a study of the Commodity Exchange
9 Act (in this section referred to as “the Act”) and the Com-
10 mission’s rules, regulations and orders governing the con-
11 duct of persons required to be registered under the Act,
12 not later than 1 year after the date of the enactment of
13 this Act. The study shall identify—

14 (1) the core principles and interpretations of ac-
15 ceptable business practices that the Commission has
16 adopted or intends to adopt to replace the provisions
17 of the Act and the Commission’s rules and regula-
18 tions thereunder;

19 (2) the rules and regulations that the Commis-
20 sion has determined must be retained and the rea-
21 sons therefor;

22 (3) the extent to which the Commission believes
23 it can effect the changes identified in paragraph (1)
24 of this subsection through its exemptive authority
25 under section 4(c) of the Act; and

1 (4) the regulatory functions the Commission
2 currently performs that can be delegated to a reg-
3 istered futures association (within the meaning of
4 the Act) and the regulatory functions that the Com-
5 mission has determined must be retained and the
6 reasons therefor.

7 (b) In conducting the study, the Commission shall so-
8 licit the views of the public as well as Commission reg-
9 istrants, registered entities, and registered futures asso-
10 ciations (all within the meaning of the Act).

11 (c) The Commission shall transmit to the Committee
12 on Agriculture of the House of Representatives and the
13 Committee on Agriculture, Nutrition, and Forestry of the
14 Senate a report of the results of its study, which shall
15 include an analysis of comments received.

16 **SEC. 125. EFFECTIVE DATE.**

17 This title takes effect on the date of enactment of
18 this Act.

19 **SEC. 126. INTERNATIONAL ACTIVITIES OF THE COMMODITY**
20 **FUTURES TRADING COMMISSION.**

21 (a) FINDINGS.—The Congress finds that—

22 (1) derivatives markets serving United States
23 industry are increasingly global in scope;

24 (2) developments in data processing and com-
25 munications technologies enable users of risk man-

1 agement services to analyze and compare those serv-
2 ices on a worldwide basis;

3 (3) financial services regulatory policy must be
4 flexible to account for rapidly changing derivatives
5 industry business practices;

6 (4) regulatory impediments to the operation of
7 global business interests can compromise the com-
8 petitiveness of United States businesses;

9 (5) events that disrupt financial markets and
10 economies are often global in scope, require rapid
11 regulatory response, and coordinated regulatory ef-
12 fort across international jurisdictions;

13 (6) through its membership in the International
14 Organisation of Securities Commissions, the Com-
15 modity Futures Trading Commission has promoted
16 beneficial communication among market regulators
17 and international regulatory cooperation; and

18 (7) the Commodity Futures Trading Commis-
19 sion and other United States financial regulators
20 and self-regulatory organizations should continue to
21 foster productive and cooperative working relation-
22 ships with their counterparts in foreign jurisdictions.

23 (b) SENSE OF THE CONGRESS.—It is the sense of
24 the Congress that, consistent with its responsibilities
25 under the Commodity Exchange Act, the Commodity Fu-

1 tures Trading Commission should, as part of its inter-
2 national activities, continue to coordinate with foreign reg-
3 ulatory authorities, to participate in international regu-
4 latory organizations and forums, and to provide technical
5 assistance to foreign government authorities, in order to
6 encourage—

7 (1) the facilitation of cross-border transactions
8 through the removal or lessening of any unnecessary
9 legal or practical obstacles;

10 (2) the development of internationally accepted
11 regulatory standards of best practice;

12 (3) the enhancement of international super-
13 visory cooperation and emergency procedures;

14 (4) the strengthening of international coopera-
15 tion for customer and market protection; and

16 (5) improvements in the quality and timeliness
17 of international information sharing.

18 **TITLE II—SECURITIES ACTS**

19 **AMENDMENTS**

20 **Subtitle A—Amendments**

21 **SEC. 201. DEFINITIONS UNDER THE SECURITIES EX-** 22 **CHANGE ACT OF 1934.**

23 Section 3(a) of the Securities Exchange Act of 1934
24 (15 U.S.C. 78c(a)) is amended—

1 (1) in paragraph (10), by inserting “security
2 future,” after “treasury stock,”;

3 (2) by striking paragraph (11) and inserting
4 the following:

5 “(11) The term ‘equity security’ means any
6 stock or similar security; or any security future; or
7 any security convertible, with or without consider-
8 ation, into such a security, or carrying any warrant
9 or right to subscribe to or purchase such a security;
10 or any such warrant or right; or any put, call, strad-
11 dle, option, or privilege on any such security; or any
12 other security which the Commission shall deem to
13 be of similar nature and consider necessary or ap-
14 propriate, by such rules and regulations as it may
15 prescribe in the public interest or for the protection
16 of investors, to treat as an equity security.”;

17 (3) in paragraph (13), by adding at the end the
18 following: “For security future products, such term
19 includes any contract, agreement, or transaction for
20 future delivery.”;

21 (4) in paragraph (14), by adding at the end the
22 following: “For security future products, such term
23 includes any contract, agreement, or transaction for
24 future delivery.”; and

25 (5) by adding at the end the following:

1 “(55)(A) The term ‘security future’ means a
2 contract of sale for future delivery of a single secu-
3 rity or of a narrow-based security index, including
4 any interest therein or based on the value thereof,
5 except an exempted security under section 3(a)(12)
6 of the Securities Exchange Act of 1934 as in effect
7 on the date of enactment of the Futures Trading
8 Act of 1982 (other than any municipal security as
9 defined in section 3(a)(29) as in effect on the date
10 of enactment of the Futures Trading Act of 1982).
11 The term ‘security future’ does not include any
12 agreement, contract, or transaction excluded under
13 subsection (c), (d), or (f) of section 2 of the Com-
14 modity Exchange Act as in effect on the date of en-
15 actment of the Commodity Futures Modernization
16 Act of 2000.

17 “(B) The term ‘narrow-based security index’
18 means an index of securities on which contracts for
19 future delivery are not permitted under section
20 2(a)(1)(C) of the Commodity Exchange Act, includ-
21 ing any interest therein or based on the value there-
22 of.

23 “(C) The term ‘security future product’ means
24 a security future or any put, call, straddle, option,
25 or privilege on any security future.

1 “(56)(A) The term ‘margin’, when used with
2 respect to a security future product, means the
3 amount, type, and form of collateral required to se-
4 cure any extension or maintenance of credit, or the
5 amount, type, and form of collateral required as a
6 performance bond related to the purchase, sale, or
7 carrying of a security future product, and all other
8 uses of collateral related to the purchasing, selling,
9 or carrying of a security future product.

10 “(B) The terms ‘margin level’ and ‘level of mar-
11 gin’, when used with respect to a security future
12 product, mean the amount of margin required to se-
13 cure any extension or maintenance of credit, or the
14 amount of margin required as a performance bond
15 related to the purchase, sale, or carrying of a secu-
16 rity future product.

17 “(C) The terms ‘higher margin level’ and ‘high-
18 er level of margin’, when used with respect to a se-
19 curity future product, mean a margin level estab-
20 lished by a national securities exchange registered
21 pursuant to section 6(g) that is higher than the min-
22 imum amount established by the Commission pursu-
23 ant to section 7(c)(2)(B).”.

1 **SEC. 202. REGULATORY RELIEF FOR MARKETS TRADING**
2 **SECURITY FUTURE PRODUCTS.**

3 (a) EXPEDITED REGISTRATION AND EXEMPTION.—
4 Section 6 of the Securities Exchange Act of 1934 (15
5 U.S.C. 78f) is amended by adding at the end the following:

6 “(g) NOTICE REGISTRATION OF SECURITY FUTURE
7 PRODUCT EXCHANGES.—

8 “(1) REGISTRATION REQUIRED.—An exchange
9 that lists or trades security future products may be
10 registered as a national securities exchange solely for
11 the purposes of trading security future products if—

12 “(A) the exchange is a board of trade, as
13 that term is defined by the Commodity Ex-
14 change Act (7 U.S.C. 1a(1)), that has been des-
15 ignated a contract market by the Commodity
16 Futures Trading Commission and is not subject
17 to a suspension order by the Commodity Fu-
18 tures Trading Commission; and

19 “(B) such exchange does not serve as a
20 market place for securities other than—

21 “(i) security future products; or

22 “(ii) futures on exempted securities or
23 groups or indexes of securities or options
24 thereon that have been authorized under
25 section 2(a)(1)(C) of the Commodity Ex-

1 change Act by Commodity Futures Trad-
2 ing Commission order.

3 “(2) REGISTRATION BY NOTICE FILING.—

4 “(A) FORM AND CONTENT.—An exchange
5 required to register only because such exchange
6 lists or trades security future products may reg-
7 ister for purposes of this section by filing with
8 the Commission a written notice in such form,
9 and containing the rules of the exchange and
10 such other information and documents con-
11 cerning such exchange as the Commission, by
12 rule, may prescribe as necessary or appropriate
13 in the public interest or for the protection of in-
14 vestors.

15 “(B) IMMEDIATE EFFECTIVENESS.—Such
16 registration shall be effective immediately upon
17 filing of the written notice with the Commis-
18 sion, except that such registration shall not be
19 effective if such registration would be subject to
20 suspension or revocation.

21 “(C) TERMINATION.—Such registration
22 shall be terminated immediately if any of the
23 conditions for registration set forth in this sub-
24 section are no longer satisfied.

1 “(3) PUBLIC AVAILABILITY.—The Commission
2 shall make available to the public all notices it re-
3 ceives under this subsection.

4 “(4) EXEMPTION OF EXCHANGES FROM SPECI-
5 FIED PROVISIONS.—

6 “(A) TRANSACTION EXEMPTIONS.—An ex-
7 change that is registered under paragraph (1)
8 of this subsection shall be exempt from, and
9 shall not be required to enforce compliance by
10 its members with, and its members shall not,
11 solely with respect to those transactions effected
12 on such exchange in security future products,
13 be required to comply with, the following provi-
14 sions of this title and the rules thereunder:

15 “(i) Subsections (b)(2), (b)(3), (b)(4),
16 (b)(7), (b)(9), (c), (d), and (e) of this sec-
17 tion.

18 “(ii) Subsection (a) of section 10.

19 “(iii) Section 11.

20 “(iv) Subsections (d), (f), and (k) of
21 section 17.

22 “(v) Subsections (a), (f), and (h) of
23 section 19.

24 “(B) RULE CHANGE EXEMPTIONS.—An ex-
25 change that is subject to the registration re-

1 quirement of paragraph (1) of this subsection
2 shall also be exempt from submitting proposed
3 rule changes pursuant to section 19(b) of this
4 title, except that—

5 “(i) such exchange shall file proposed
6 rule changes related to higher margin lev-
7 els, fraud or manipulation, recordkeeping,
8 reporting, listing standards of security fu-
9 ture products, decimal pricing, or sales
10 practices for persons who effect trans-
11 actions in security future products or rules
12 primarily related to such exchange’s obliga-
13 tion to enforce the securities laws pursuant
14 to section 19(b)(7);

15 “(ii) such exchange shall file pursuant
16 to sections 19(b)(1) and 19(b)(2) proposed
17 rule changes related to margin, except for
18 changes resulting in higher margin levels;
19 and

20 “(iii) such exchange shall file pursu-
21 ant to section 19(b)(1) proposed rule
22 changes that have been abrogated by the
23 Commission pursuant to section
24 19(b)(7)(C).

1 “(5) ASSOCIATION COMPLIANCE WITH REQUIRE-
2 MENTS.—No exchange that is registered under para-
3 graph (1) of this subsection shall trade any security
4 future product until a futures association registered
5 under section 17 of the Commodity Exchange Act
6 has met the requirements set forth in section
7 15A(k)(2) of this title.

8 “(6) TRADING IN SECURITY FUTURE PROD-
9 UCTS.—It shall be unlawful for any person to exe-
10 cute or trade a security future product until the
11 later of—

12 “(A) one year after the date of enactment
13 of the Commodity Futures Modernization Act
14 of 2000; or

15 “(B) such date as the Federal income tax
16 treatment applicable to the security future
17 products permitted under this title are equiva-
18 lent to the Federal income tax treatment of eq-
19 uity options traded on a national securities ex-
20 change.”.

21 (b) COMMISSION REVIEW OF PROPOSED RULE
22 CHANGES.—

23 (1) EXPEDITED REVIEW.—Section 19(b) of the
24 Securities Exchange Act of 1934 (15 U.S.C. 78s(b))
25 is amended by adding at the end the following:

1 “(7) SECURITY FUTURE PRODUCT RULE
2 CHANGES.—

3 “(A) FILING REQUIRED.—A self-regulatory
4 organization that is an exchange registered with
5 the Commission pursuant to section 6(g) of this
6 title or that is a national securities association
7 registered pursuant to section 15A(k) of this
8 title shall file with the Commission, in accord-
9 ance with such rules as the Commission may
10 prescribe, copies of any proposed rule change or
11 any proposed change in, addition to, or deletion
12 from the rules of such self-regulatory organiza-
13 tion (hereinafter in this paragraph collectively
14 referred to as a ‘proposed rule change’) that re-
15 lates to higher margin levels, fraud or manipu-
16 lation, recordkeeping, reporting, listing stand-
17 ards of security future products, decimal pric-
18 ing, or sales practices for persons who effect
19 transactions in security future products or rules
20 primarily related to such self-regulatory organi-
21 zation’s obligation to enforce the securities
22 laws. Such proposed rule change shall be ac-
23 companied by a concise general statement of
24 the basis and purpose of such proposed rule
25 change. The Commission shall, upon the filing

1 of any proposed rule change, publish notice
2 thereof together with the terms of substance of
3 the proposed rule change or a description of the
4 subjects and issues involved. The Commission
5 shall give interested persons an opportunity to
6 submit written data, views, and arguments con-
7 cerning such proposed rule change.

8 “(B) FILING WITH CFTC.—A proposed rule
9 change filed with the Commission pursuant to
10 subparagraph (A) shall be filed concurrently
11 with the Commodity Futures Trading Commis-
12 sion. Such proposed rule change may take ef-
13 fect upon a determination by the Commodity
14 Futures Trading Commission that review of the
15 proposed rule change is not necessary or upon
16 approval of the proposed rule change by the
17 Commodity Futures Trading Commission.

18 “(C) ABROGATION OF RULE CHANGES.—
19 Any proposed rule change of a self-regulatory
20 organization that has taken effect pursuant to
21 subparagraph (B) may be enforced by such self-
22 regulatory organization to the extent such rule
23 is not inconsistent with the provisions of this
24 title, the rules and regulations thereunder, and
25 applicable Federal law. At any time within 60

1 days of the date the Commodity Futures Trad-
2 ing Commission determines that review of such
3 proposed rule change is not necessary or the
4 date the Commodity Futures Trading Commis-
5 sion approves such proposed rule change, the
6 Commission, after consultation with the Com-
7 modity Futures Trading Commission, sum-
8 marily may abrogate the proposed rule change
9 and require that the proposed rule change be
10 refiled in accordance with the provisions of
11 paragraph (1), if it appears to the Commission
12 that such proposed rule change unduly burdens
13 competition, conflicts with the securities laws,
14 does not promote efficiency, or is inconsistent
15 with the public interest and the protection of
16 investors. Commission action pursuant to the
17 preceding sentence shall not affect the validity
18 or force of the rule change during the period it
19 was in effect and shall not be reviewable under
20 section 25 nor deemed to be a final agency ac-
21 tion for purposes of section 704 of title 5,
22 United States Code.

23 “(D) REVIEW OF RESUBMITTED ABRO-
24 GATED RULES.—

1 “(i) PROCEEDINGS.—Within 35 days
2 of the date of publication of notice of the
3 filing of a proposed rule change that is ab-
4 rogated in accordance with subparagraph
5 (C) and refiled in accordance with para-
6 graph (1), or within such longer period as
7 the Commission may designate up to 90
8 days after such date if the Commission
9 finds such longer period to be appropriate
10 and publishes its reasons for so finding or
11 as to which the self-regulatory organization
12 consents, the Commission shall—

13 “(I) by order approve such pro-
14 posed rule change; or

15 “(II) after consultation with the
16 Commodity Futures Trading Commis-
17 sion, institute proceedings to deter-
18 mine whether the proposed rule
19 change should be disapproved.

20 Proceedings under subclause (II) shall in-
21 clude notice of the grounds for disapproval
22 under consideration and opportunity for
23 hearing and be concluded within 180 days
24 after the date of publication of notice of
25 the filing of the proposed rule change. At

1 the conclusion of such proceedings, the
2 Commission, by order, shall approve or dis-
3 approve such proposed rule change. The
4 Commission may extend the time for con-
5 clusion of such proceedings for up to 60
6 days if it finds good cause for such exten-
7 sion and publishes its reasons for so find-
8 ing or for such longer period as to which
9 the self-regulatory organization consents.

10 “(ii) GROUNDS FOR APPROVAL.—The
11 Commission shall approve a proposed rule
12 change of a self-regulatory organization
13 under this subparagraph if it finds that
14 such proposed rule change promotes effi-
15 ciency, does not unduly burden competi-
16 tion, and does not conflict with the securi-
17 ties laws. The Commission shall disapprove
18 such a proposed rule change of a self-regu-
19 latory organization if it does not make
20 such finding. The Commission shall not
21 approve any proposed rule change prior to
22 the 30th day after the date of publication
23 of notice of the filing thereof, unless the
24 Commission finds good cause for so doing
25 and publishes its reasons for so finding.”.

1 (2) DECIMAL PRICING PROVISIONS.—Section
2 19(b) of the Securities Exchange Act of 1934 (15
3 U.S.C. 78s(b)) is amended by inserting after para-
4 graph (7), as added by paragraph (1), the following:

5 “(8) DECIMAL PRICING.—Not later than 9
6 months after the date of enactment of this para-
7 graph, all self-regulatory organizations listing or
8 trading security future products shall file proposed
9 rule changes necessary to implement decimal pricing
10 of security future products. The Commission may
11 not require such rules to contain equal minimum in-
12 crements in such decimal pricing.”.

13 (3) CONSULTATION PROVISIONS.—Section 19(b)
14 of the Securities Exchange Act of 1934 (15 U.S.C.
15 78s(b)) is amended by inserting after paragraph (8),
16 as added by paragraph (2), the following:

17 “(9) CONSULTATION WITH CFTC.—

18 “(A) CONSULTATION REQUIRED.—The
19 Commission shall consult with and consider the
20 views of the Commodity Futures Trading Com-
21 mission prior to approving a proposed rule
22 change filed by a national securities association
23 registered pursuant to section 15A(a) or a na-
24 tional securities exchange subject to the provi-
25 sions of subsection (a) that primarily concerns

1 conduct related to transactions in security fu-
2 tures products, except where the Commission
3 determines that an emergency exists requiring
4 expeditious or summary action and publishes its
5 reasons therefor.

6 “(B) RESPONSES TO CFTC COMMENTS AND
7 FINDINGS.—If the Commodity Futures Trading
8 Commission comments in writing to the Com-
9 mission on a proposed rule that has been pub-
10 lished for comment, the Commission shall re-
11 spond in writing to such written comment be-
12 fore approving the proposed rule. If the Com-
13 modity Futures Trading Commission deter-
14 mines, and notifies the Commission, that such
15 rule, if implemented, would, or as applied—

16 “(i) adversely affect the liquidity or
17 efficiency of the market for security future
18 products; or

19 “(ii) impose any burden on competi-
20 tion not necessary or appropriate in fur-
21 therance of the purposes of this section,
22 the Commission shall, prior to adopting the
23 proposed rule, find that such rule is necessary
24 and appropriate in furtherance of the purposes

1 of this section notwithstanding the Commodity
2 Futures Trading Commission's determination.

3 “(C) CONSIDERATIONS OF EXISTING REG-
4 ULATION.—In approving rules described in sub-
5 paragraph (A), the Commission shall consider
6 the sufficiency and appropriateness of then ex-
7 isting laws and rules applicable to security fu-
8 tures products.”.

9 (c) REVIEW OF DISCIPLINARY PROCEEDINGS.—Sec-
10 tion 19(d) of the Securities Exchange Act of 1934 (15
11 U.S.C. 78s(d)) is amended by adding at the end the fol-
12 lowing:

13 “(3) The provisions of this subsection shall apply to
14 an exchange registered pursuant to section 6(g) of this
15 title or a national securities association registered pursu-
16 ant to section 15A(k) of this title only to the extent that
17 such exchange or association imposes any final discipli-
18 nary sanction related to a security future product or the
19 securities laws.”.

20 **SEC. 203. REGULATORY RELIEF FOR INTERMEDIARIES**
21 **TRADING SECURITY FUTURE PRODUCTS.**

22 (a) EXPEDITED REGISTRATION AND EXEMPTIONS.—
23 (1) AMENDMENT.—Section 15(b) of the Securi-
24 ties Exchange Act of 1934 (15 U.S.C. 78o(b)) is
25 amended by adding at the end the following:

1 “(11) BROKER/DEALER REGISTRATION WITH
2 RESPECT TO TRANSACTIONS IN SECURITY FUTURE
3 PRODUCTS.—

4 “(A) NOTICE REGISTRATION.—

5 “(i) CONTENTS OF NOTICE.—Not-
6 withstanding paragraphs (1) and (2), a
7 broker or dealer required to register only
8 because it effects transactions in security
9 future products on an exchange registered
10 pursuant to section 6(g) may register for
11 purposes of this section by filing with the
12 Commission a written notice in such form
13 and containing such information con-
14 cerning such broker or dealer and any per-
15 sons associated with such broker or dealer
16 as the Commission, by rule, may prescribe
17 as necessary or appropriate in the public
18 interest or for the protection of investors.
19 A broker or dealer may not register under
20 this paragraph unless that broker or dealer
21 is a member of a national securities asso-
22 ciation registered under section 15A(k).

23 “(ii) IMMEDIATE EFFECTIVENESS.—
24 Such registration shall be effective imme-
25 diately upon filing of the written notice

1 with the Commission, except that such reg-
2 istration shall not be effective if the reg-
3 istration would be subject to suspension or
4 revocation under paragraph (4).

5 “(iii) SUSPENSION.—Such registration
6 shall be suspended immediately if a na-
7 tional securities association registered pur-
8 suant to section 15A(k) of this title sus-
9 pends the membership of that broker or
10 dealer.

11 “(iv) TERMINATION.—Such registra-
12 tion shall be terminated immediately if any
13 of the above stated conditions for registra-
14 tion set forth in this paragraph are no
15 longer satisfied.

16 “(B) EXEMPTIONS FOR REGISTERED BRO-
17 KERS AND DEALERS.—A broker or dealer reg-
18 istered pursuant to the requirements of sub-
19 paragraph (A) shall be exempt from the fol-
20 lowing provisions of this title and the rules
21 thereunder with respect to transactions in secu-
22 rity future products:

23 “(i) Section 8.

24 “(ii) Subsection (a) of section 10.

25 “(iii) Section 11.

1 “(iv) Subsections (c)(3) and (c)(5) of
2 this section.

3 “(v) Section 15B.

4 “(vi) Section 15C.

5 “(vii) Subsections (d), (e), (f), (g),
6 (h), and (i) of section 17.”.

7 (2) CONFORMING AMENDMENT.—Section 28(e)
8 of the Securities Exchange Act of 1934 (15 U.S.C.
9 78bb(e)) is amended by adding at the end the fol-
10 lowing:

11 “(4) The provisions of this subsection shall not apply
12 with regard to securities that are security future prod-
13 ucts.”.

14 (b) FLOOR BROKERS.—Section 15(b) of the Securi-
15 ties Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended
16 by inserting after paragraph (11), as added by subsection
17 (a), the following:

18 “(12) EXEMPTION FOR SECURITY FUTURE
19 PRODUCT EXCHANGE MEMBERS.—

20 “(A) REGISTRATION EXEMPTION.—A nat-
21 ural person shall be exempt from the registra-
22 tion requirements of this section if such
23 person—

24 “(i) is a member of a designated con-
25 tract market registered with the Commis-

1 sion as an exchange pursuant to section
2 6(g);

3 “(ii) only effects transactions in secu-
4 rities of the exchange of which such person
5 is a member; and

6 “(iii) has no direct contact with public
7 customers.

8 “(B) OTHER EXEMPTIONS.—A natural
9 person exempt from registration pursuant to
10 subparagraph (A) shall also be exempt from the
11 following provisions of this title and the rules
12 thereunder:

13 “(i) Section 8.

14 “(ii) Subsection (a) of section 10.

15 “(iii) Section 11.

16 “(iv) Subsections (c)(3), (c)(5), and
17 (e) of this section.

18 “(v) Section 15B.

19 “(vi) Section 15C.

20 “(vii) Subsections (d), (e), (f), (g),
21 (h), and (i) of section 17.”.

22 (c) LIMITED PURPOSE NATIONAL SECURITIES ASSO-
23 CIATION.—Section 15A of the Securities Exchange Act of
24 1934 (15 U.S.C. 78o–3) is amended by adding at the end
25 the following:

1 “(k) LIMITED PURPOSE NATIONAL SECURITIES AS-
2 SOCIATION.—

3 “(1) REGULATION OF MEMBERS WITH RESPECT
4 TO SECURITY FUTURE PRODUCTS.—Unless it has no
5 members that effect transactions in security future
6 products, a futures association registered under sec-
7 tion 17 of the Commodity Exchange Act shall be a
8 registered national securities association for the lim-
9 ited purpose of regulating the activities of members
10 who are registered as brokers or dealers in security
11 future products pursuant to section 15(b)(11).

12 “(2) REQUIREMENTS FOR REGISTRATION.—
13 Such a securities association shall—

14 “(A) be so organized and have the capacity
15 to carry out the purposes of the securities laws
16 applicable to security future products and to
17 comply, and (subject to any rule or order of the
18 Commission pursuant to section 19(g)(2)) to
19 enforce compliance by its members and persons
20 associated with its members, with the provisions
21 of the securities laws applicable to security fu-
22 ture products, the rules and regulations there-
23 under, and its rules;

24 “(B) have rules that—

1 “(i) are designed to prevent fraudu-
2 lent and manipulative acts and practices,
3 to promote just and equitable principles of
4 trade, and, in general, to protect investors
5 and the public interest, including rules
6 governing sales practices and the adver-
7 tising of security future products com-
8 parable to those of other national securities
9 associations registered pursuant to sub-
10 section (a); and

11 “(ii) are not designed to regulate by
12 virtue of any authority conferred by this
13 title matters not related to the purposes of
14 this title or the administration of the asso-
15 ciation;

16 “(C) have rules that provide that (subject
17 to any rule or order of the Commission pursu-
18 ant to section 19(g)(2)) its members and per-
19 sons associated with its members shall be ap-
20 propriately disciplined for violation of any provi-
21 sion of the securities laws applicable to security
22 future products, the rules or regulations there-
23 under, or the rules of the association, by expul-
24 sion, suspension, limitation of activities, func-
25 tions, and operations, fine, censure, being sus-

1 pended or barred from being associated with a
2 member, or any other fitting sanction; and

3 “(D) have rules that ensure that members
4 and natural persons associated with members
5 meet such standards of training, experience,
6 and competence necessary to effect transactions
7 in security future products and are tested for
8 their knowledge of securities and security future
9 products.

10 “(3) EXEMPTION FROM RULE CHANGE SUBMIS-
11 SION.—Such a securities association shall be exempt
12 from submitting proposed rule changes pursuant to
13 section 19(b) of this title, except that—

14 “(A) the association shall file proposed
15 rule changes related to higher margin levels,
16 fraud or manipulation, recordkeeping, report-
17 ing, listing standards of security future prod-
18 ucts, decimal pricing, sales practices, adver-
19 tising of security future products, or standards
20 of training, experience, competence, or other
21 qualifications for persons who effect trans-
22 actions in security future products or rules pri-
23 marily related to the association’s obligation to
24 enforce the securities laws pursuant to section
25 19(b)(7);

1 “(B) the association shall file pursuant to
2 sections 19(b)(1) and 19(b)(2) proposed rule
3 changes related to margin, except for changes
4 to higher margin levels; and

5 “(C) the association shall file pursuant to
6 section 19(b)(1) proposed rule changes that
7 have been abrogated by the Commission pursu-
8 ant to section 19(b)(7)(C).

9 “(4) OTHER EXEMPTIONS.—Such a securities
10 association shall be exempt from and shall not be re-
11 quired to enforce compliance by its members, and its
12 members shall not, solely with respect to their trans-
13 actions effected in security future products, be re-
14 quired to comply, with the following provisions of
15 this title and the rules thereunder:

16 “(A) Subsections (b)(1), (b)(3), (b)(4),
17 (b)(5), (b)(8), (b)(10), (b)(11), (b)(12), (b)(13),
18 (c), (d), (e), (f), (g), (h), and (i) of this section.

19 “(B) Subsections (d), (f), and (k) of sec-
20 tion 17.

21 “(C) Subsections (a), (f), and (h) of sec-
22 tion 19.”.

23 (d) EXEMPTION UNDER THE SECURITIES INVESTOR
24 PROTECTION ACT OF 1970.—

1 (1) Section 16(14) of the Securities Investor
2 Protection Act of 1970 (15 U.S.C. 78lll(14)) is
3 amended by inserting “or any security future as that
4 term is defined in section 3(a)(55)(A) of the Securi-
5 ties Exchange Act of 1934,” after “certificate of de-
6 posit for a security,”.

7 (2) Section 3(a)(2)(A) of the Securities Investor
8 Protection Act of 1970 (15 U.S.C. 78ccc(a)(2)(A))
9 is amended—

10 (A) in clause (i), by striking “and” after
11 the semicolon;

12 (B) in clause (ii), by striking the period
13 and inserting “; and”;

14 (C) by adding at the end the following:

15 “(iii) persons who are registered as a
16 broker or dealer pursuant to section
17 15(b)(11)(A) of the Securities Exchange
18 Act of 1934.”.

19 (e) OTHER PROVISION.—Section 15(i)(6)(A) of the
20 Securities Exchange Act of 1934 (15 U.S.C. 78o(i)(6)(A))
21 is amended—

22 (1) in clause (ii), by striking “and” after the
23 semicolon;

24 (2) in clause (iii), by striking the period and in-
25 serting “; and”; and

1 (3) by adding at the end the following:

2 “(iv) is not a security future prod-
3 uct.”.

4 **SEC. 204. SPECIAL PROVISIONS FOR INTERAGENCY CO-**
5 **OPERATION.**

6 Section 17 of the Securities Exchange Act of 1934
7 (15 U.S.C. 78q) is amended by striking subsection (b) and
8 inserting the following:

9 “(b) RECORDS SUBJECT TO EXAMINATION.—

10 “(1) PROCEDURES FOR COOPERATION WITH
11 OTHER AGENCIES.—All records of persons described
12 in subsection (a) are subject at any time, or from
13 time to time, to such reasonable periodic, special, or
14 other examinations by representatives of the Com-
15 mission and the appropriate regulatory agency for
16 such persons as the Commission or the appropriate
17 regulatory agency for such persons deems necessary
18 or appropriate in the public interest, for the protec-
19 tion of investors, or otherwise in furtherance of the
20 purposes of this title if the Commission, prior to
21 conducting any such examination of a—

22 “(A) registered clearing agency, registered
23 transfer agent, or registered municipal securi-
24 ties dealer for which it is not the appropriate
25 regulatory agency, gives notice to the appro-

1 priate regulatory agency for such clearing agen-
2 cy, transfer agent, or municipal securities deal-
3 er, of such proposed examination and consults
4 with the appropriate regulatory agency con-
5 cerning the feasibility and desirability of coordi-
6 nating such examinations conducted by the ap-
7 propriate regulatory agency with a view to
8 avoiding unnecessary regulatory duplication or
9 undue regulatory burdens for such clearing
10 agency, transfer agent, or municipal securities
11 dealer; or

12 “(B) broker or dealer registered pursuant
13 to section 15(b)(11) or exchange registered pur-
14 suant to section 6(g), gives notice to the Com-
15 modity Futures Trading Commission of such
16 proposed examination and consults with the
17 Commodity Futures Trading Commission con-
18 cerning the feasibility and desirability of coordi-
19 nating such examination with examinations con-
20 ducted by the Commodity Futures Trading
21 Commission with a view to avoiding unneces-
22 sary regulatory duplication or undue regulatory
23 burdens for such broker or dealer or exchange.

24 “(2) FURNISHING DATA AND REPORTS TO
25 CFTC.—The Commission shall notify the Commodity

1 Futures Trading Commission of any examination
2 conducted of any broker or dealer registered pursu-
3 ant to section 15(b)(11) or exchange registered pur-
4 suant to section 6(g), and, upon request, furnish to
5 the Commodity Futures Trading Commission any
6 examination report and data supplied to the Com-
7 mission in connection with such examination.

8 “(3) USE OF CFTC REPORTS.—The Commission
9 shall, to the fullest extent possible, use the reports
10 of examinations of any broker or dealer registered
11 pursuant to section 15(b)(11) or exchange registered
12 pursuant to section 6(g) made by the Commodity
13 Futures Trading Commission, a national securities
14 association registered pursuant to section 15A(k), or
15 an exchange registered pursuant to section 6(g).

16 “(4) LARGE TRADER REPORTING.—The Com-
17 mission and the Commodity Futures Trading Com-
18 mission shall jointly prescribe rules to require large
19 trader reporting with respect to security future prod-
20 ucts. Such rules shall specify a reporting level for
21 each security future product, a format for reporting,
22 and the procedures for filing such reports with the
23 Commission and the Commodity Futures Trading
24 Commission.

1 “(5) RULE OF CONSTRUCTION.—Nothing in
2 this subsection shall be construed to impair or limit
3 (other than by the requirement of prior consultation)
4 the power of the Commission under this subsection
5 to examine any clearing agency, transfer agent, or
6 municipal securities dealer, broker or dealer reg-
7 istered pursuant to section 15(b)(11), exchange reg-
8 istered pursuant to section 6(g), or national securi-
9 ties association registered pursuant to section
10 15A(k), or to affect in any way the power of the
11 Commission under any other provision of this title or
12 otherwise to inspect, examine, or investigate any
13 clearing agency, transfer agent, or municipal securi-
14 ties dealer, broker or dealer registered pursuant to
15 section 15(b)(11), exchange registered pursuant to
16 section 6(g), or national securities association reg-
17 istered pursuant to section 15A(k).”.

18 **SEC. 205. MAINTENANCE OF MARKET INTEGRITY FOR SE-**
19 **CURITY FUTURE PRODUCTS.**

20 (a) ADDITION OF SECURITY FUTURE PRODUCTS TO
21 OPTION-SPECIFIC ENFORCEMENT PROVISIONS.—

22 (1) PROHIBITION AGAINST MANIPULATION.—
23 Section 9(b) of the Securities Exchange Act of 1934
24 (15 U.S.C. 78i(b)) is amended—

25 (A) in paragraph (1)—

1 (i) by inserting “(A)” after “ac-
2 quires”; and

3 (ii) by striking “; or” and inserting “,
4 or (B) any contract of sale of the security
5 for future delivery; or”;
6 (B) in paragraph (2)—

7 (i) by inserting “(A)” after “interest
8 in any”; and

9 (ii) by striking “; or” and inserting “,
10 or (B) such contract of sale for future de-
11 livery; or”; and
12 (C) in paragraph (3)—

13 (i) by inserting “(A)” after “interest
14 in any”; and

15 (ii) by inserting “, or (B) such con-
16 tract of sale for future delivery” after
17 “privilege”.

18 (2) MANIPULATION IN OPTIONS AND OTHER
19 DERIVATIVE PRODUCTS.—Section 9(g) of the Securi-
20 ties Exchange Act of 1934 (15 U.S.C. 78i(g)) is
21 amended—

22 (A) by inserting “(1)” after “(g)”; and

23 (B) by adding at the end following:

24 “(2) Notwithstanding the Commodity Exchange Act,
25 the Commission shall have the authority to regulate the

1 trading of any security future product to the extent pro-
2 vided in the securities laws.”.

3 (3) LIABILITY OF CONTROLLING PERSONS AND
4 PERSONS WHO AID AND ABET VIOLATIONS.—Section
5 20(d) of the Securities Exchange Act of 1934 (15
6 U.S.C. 78t(d)) is amended by striking “or privilege”
7 and inserting “, privilege, or security future prod-
8 uct”.

9 (4) LIABILITY TO CONTEMPORANEOUS TRADERS
10 FOR INSIDER TRADING.—Section 21A(a)(1) of the
11 Securities Exchange Act of 1934 (15 U.S.C. 78u-
12 1(a)(1)) is amended by striking “standardized op-
13 tions, the Commission—” and inserting “standard-
14 ized options or security future products, the Com-
15 mission—”.

16 (5) ENFORCEMENT CONSULTATION.—Section
17 21 of the Securities Exchange Act of 1934 (15
18 U.S.C. 78u) is amended by adding at the end the
19 following:

20 “(i) INFORMATION TO CFTC.—The Commission
21 shall file with the Commodity Futures Trading Commis-
22 sion notice of the commencement of any proceeding and
23 a copy of any order entered by the Commission against
24 any broker or dealer registered pursuant to section

1 15(b)(11) or any exchange registered pursuant to section
2 6(g).”.

3 **SEC. 206. SPECIAL PROVISIONS FOR THE TRADING OF SE-**
4 **CURITY FUTURE PRODUCTS.**

5 (a) LISTING STANDARDS.—Section 6 of the Securi-
6 ties Exchange Act of 1934 (15 U.S.C. 78f) is amended
7 by inserting after subsection (g), as added by section 202,
8 the following:

9 “(h) TRADING IN SECURITY FUTURE PRODUCTS.—

10 “(1) TRADING ON EXCHANGE OR ASSOCIATION
11 REQUIRED.—It shall be unlawful for any person to
12 effect transactions in security future products that
13 are not listed on a national securities exchange or a
14 national securities association registered pursuant to
15 section 15A(a).

16 “(2) LISTING STANDARDS REQUIRED.—A na-
17 tional securities exchange or a national securities as-
18 sociation registered pursuant to section 15A(a) may
19 trade only security future products that conform
20 with listing standards that such exchanges file with
21 the Commission under section 19(b) and the Com-
22 modity Futures Trading Commission under section
23 5c(c) of the Commodity Exchange Act.

24 “(3) REQUIREMENTS FOR LISTING STAND-
25 ARDS.—Such listing standards shall—

1 “(A) require that any security underlying
2 the security future, including each component
3 security of a narrow-based security index, be
4 registered pursuant to section 12 of this title;

5 “(B) require that the security future prod-
6 uct be cash settled;

7 “(C) be no less restrictive than comparable
8 listing standards for options;

9 “(D) require that the security future be
10 based upon common stock and such other eq-
11 uity securities as the Commission determines
12 appropriate;

13 “(E) require that the security future prod-
14 uct is cleared by a clearing agency that has in
15 place provisions for linked and coordinated
16 clearing with other clearing agencies that clear
17 security future products, which permits the se-
18 curity future product to be purchased on a na-
19 tional securities exchange or national securities
20 association registered pursuant to section
21 15A(a) and offset on another national securities
22 exchange or national securities association reg-
23 istered pursuant to section 15A(a);

24 “(F) require that only a broker or dealer
25 subject to suitability rules comparable to those

1 of a national securities association registered
2 pursuant to section 15A(a) effect transactions
3 in the security future product;

4 “(G) require that the security future prod-
5 uct be subject to the prohibition against dual
6 trading in section 4j of the Commodity Ex-
7 change Act (7 U.S.C. 6j) or the provisions of
8 section 11(a) of this title and the rules and reg-
9 ulations thereunder, except to the extent other-
10 wise permitted under this title and the rules
11 and regulations thereunder;

12 “(H) require that trading in the security
13 future product and any security that underlies
14 the security future product not be readily sus-
15 ceptible to manipulation;

16 “(I) require that procedures be in place for
17 coordinated surveillance to detect manipulation
18 and insider trading between the market trading
19 the security future product, the market trading
20 the securities underlying the security future
21 product, and other markets trading related se-
22 curities;

23 “(J) require that the market trading the
24 security future product has in place audit trails

1 necessary or appropriate to facilitate the coordi-
2 nated surveillance required in subparagraph (I);

3 “(K) require that the market trading the
4 security future product has in place procedures
5 to coordinate trading halts between that market
6 and markets trading the securities underlying
7 the security future product and other markets
8 trading related securities; and

9 “(L) require that the margin requirements
10 for a security future product be consistent with
11 the margin requirements for comparable option
12 contracts traded on an exchange registered pur-
13 suant to section 6(a) of this title and that ini-
14 tial and maintenance margin levels for a secu-
15 rity future product shall not be lower than the
16 levels of margin required for comparable option
17 contracts traded on an exchange registered pur-
18 suant to section 6(a) of this title, except that
19 nothing in this subparagraph shall be construed
20 to prevent a national securities exchange or na-
21 tional securities association from requiring
22 higher margin levels for a security future prod-
23 uct when it deems such action to be necessary
24 or appropriate.

1 “(4) DEFERRAL OF OPTIONS ON FUTURES
2 TRADING.—No person shall offer to enter into, enter
3 into, or confirm the execution of any option on a se-
4 curity future, except that, after 3 years after the
5 date of enactment of this subsection, the Commis-
6 sion and the Commodity Futures Trading Commis-
7 sion may by order determine to permit trading of
8 options on any security future authorized to be trad-
9 ed under the provisions of this Act and the Com-
10 modity Exchange Act. Before any such determina-
11 tion, the Commission and the Commodity Futures
12 Trading Commission shall conduct a study of the ef-
13 fect of the trading of security futures on the mar-
14 kets for futures contracts, securities, and options
15 and the adequacy of protections for investors and
16 other market participants.”.

17 (b) MARGIN.—Section 7 of the Securities Exchange
18 Act of 1934 (15 U.S.C. 78g) is amended—

19 (1) in subsection (a), by inserting “or a security
20 future product” after “exempted security”;

21 (2) in subsection (c)(1)(A), by inserting “except
22 as provided in paragraph (2),” after “security,”;

23 (3) by redesignating paragraph (2) of sub-
24 section (c) as paragraph (3) of such subsection; and

1 (4) by inserting after paragraph (1) of such
2 subsection the following:

3 “(2) MARGIN REGULATIONS.—

4 “(A) COMPLIANCE WITH MARGIN RULES
5 REQUIRED.—It shall be unlawful for any
6 broker, dealer, or member of a national securi-
7 ties exchange to, directly or indirectly, extend
8 or maintain credit to or for, or collect margin
9 from any customer on, any security future
10 product unless such activities comply with the
11 rules and regulations which the Commission,
12 after consultation with the Commodity Futures
13 Trading Commission shall prescribe pursuant to
14 subparagraph (B).

15 “(B) CRITERIA FOR ISSUANCE OF
16 RULES.—The Commission shall issue such reg-
17 ulations to establish margin requirements, in-
18 cluding the establishment of levels of margin
19 (initial and maintenance) and use of collateral
20 for security future products under such terms,
21 and at such levels, as the Commission deems
22 appropriate—

23 “(i) to preserve the financial integrity
24 of markets trading security future prod-
25 ucts;

1 “(ii) to prevent systemic risk;

2 “(iii) to make consistent the margin
3 levels (initial and maintenance) and other
4 margin requirements between security fu-
5 ture products and comparable options con-
6 tracts traded on a national securities ex-
7 change; and

8 “(iv) to ensure that the margin re-
9 quirements, other than levels of margin,
10 including the type, form, and use of collat-
11 eral for security future products, are and
12 remain consistent with the requirements
13 established by the Federal Reserve Board,
14 pursuant to subparagraphs (A) and (B) of
15 paragraph (1).”.

16 (c) INCORPORATION OF SECURITY FUTURE PROD-
17 UCTS INTO THE NATIONAL MARKET SYSTEM.—Section
18 11A of the Securities Exchange Act of 1934 (15 U.S.C.
19 78k–1) is amended by adding at the end the following:

20 “(e) NATIONAL MARKETS SYSTEM FOR SECURITY
21 FUTURE PRODUCTS.—

22 “(1) CONSULTATION AND COOPERATION RE-
23 QUIRED.—With respect to security future products,
24 the Commission and the Commodity Futures Trad-
25 ing Commission shall consult and cooperate so that,

1 to the maximum extent practicable, their respective
2 regulatory responsibilities may be fulfilled and the
3 rules and regulations applicable to security future
4 products may foster a national market system for
5 security future products if the Commission and the
6 Commodity Futures Trading Commission determine
7 that such a system would be consistent with the con-
8 gressional findings in subsection (a)(1). In accord-
9 ance with this objective, the Commission shall, at
10 least 15 days prior to the issuance for public com-
11 ment of any proposed rule or regulation under this
12 section concerning security future products, consult
13 and request the views of the Commodity Futures
14 Trading Commission.

15 “(2) APPLICATION OF RULES BY ORDER OF
16 CFTC.—No rule adopted pursuant to this section
17 shall be applied to any person with respect to secu-
18 rity future products traded on an exchange that is
19 registered under section 6(g) unless the Commodity
20 Futures Trading Commission has issued an order di-
21 recting that such rule is applicable to such per-
22 sons.”.

23 (d) INCORPORATION OF SECURITY FUTURE PROD-
24 UCTS INTO THE NATIONAL SYSTEM FOR CLEARANCE AND
25 SETTLEMENT.—Section 17A(b) of the Securities Ex-

1 change Act of 1934 (15 U.S.C. 78q–1(b)) is amended by
2 adding at the end the following:

3 “(7) A clearing agency that is regulated directly or
4 indirectly by the Commodity Futures Trading Commission
5 through its association with a designated contract market
6 for security future products, and that only performs the
7 functions of a clearing agency with respect to security fu-
8 ture products and transactions in securities effected pur-
9 suant to the rules of the designated contract market with
10 which such agency is associated, is exempted from the pro-
11 visions of this section and the rules and regulations there-
12 under, except that any clearing agency that performs the
13 functions of a clearing agency with respect to security fu-
14 ture products must coordinate with and develop fair and
15 reasonable links with any and all other clearing agencies
16 that perform the functions of a clearing agency with re-
17 spect to security future products, in order to permit secu-
18 rity future products to be purchased on a national securi-
19 ties exchange or national securities association registered
20 pursuant to section 15A(a) and offset on another national
21 securities exchange or national securities association reg-
22 istered pursuant to section 15A(a).”.

23 (e) MARKET EMERGENCY POWERS AND CIRCUIT
24 BREAKERS.—Section 12(k) of the Securities Exchange
25 Act of 1934 (15 U.S.C. 78l(k)) is amended—

1 (1) in paragraph (1), by adding at the end the
2 following: “If the actions described in subparagraph
3 (A) or (B) involve a security future product, the
4 Commission shall consult with and consider the
5 views of the Commodity Futures Trading Commis-
6 sion.”; and

7 (2) in paragraph (2)(B), by inserting after the
8 first sentence the following: “If the actions described
9 in subparagraph (A) involve a security future prod-
10 uct, the Commission shall consult with and consider
11 the views of the Commodity Futures Trading Com-
12 mission.”.

13 **SEC. 207. CLEARANCE AND SETTLEMENT.**

14 Section 17A of the Securities Exchange Act of 1934
15 (15 U.S.C. 78q-1) is amended—

16 (1) in subsection (a)—

17 (A) in paragraph (1), by inserting after
18 subparagraph (D) the following:

19 “(E) The clearance and settlement of trans-
20 actions in over-the-counter derivatives through clear-
21 ing agencies registered with the Commission will re-
22 duce systemic risk and provide stability to financial
23 markets during times of market disorder.”; and

24 (B) in paragraph (2)(A)(ii), by striking
25 “and commodity options” and inserting “com-

1 modity options, and over-the-counter deriva-
2 tives”; and

3 (2) in subsection (b)—

4 (A) in paragraph (3)(A), by inserting “and
5 derivative agreements, contracts, and trans-
6 actions” after “prompt and accurate clearance
7 and settlement of securities transactions”;

8 (B) in paragraph (3)(F), by inserting
9 “and, to the extent applicable, derivative agree-
10 ments, contracts, and transactions” after “de-
11 signed to promote the prompt and accurate
12 clearance and settlement of securities trans-
13 actions”; and

14 (C) by inserting after paragraph (7), as
15 added by section 206(d), the following:

16 “(8) A registered clearing agency shall be permitted
17 to provide facilities for the clearance and settlement of any
18 derivative agreements, contracts, or transactions that are
19 excluded from the Commodity Exchange Act, subject to
20 the requirements of this section and to such rules and reg-
21 ulations as the Commission may prescribe as necessary or
22 appropriate in the public interest, for the protection of in-
23 vestors, or otherwise in furtherance of the purposes of this
24 title.”.

1 **SEC. 208. AMENDMENTS RELATING TO REGISTRATION AND**
2 **DISCLOSURE ISSUES UNDER THE SECURI-**
3 **TIES ACT OF 1933 AND THE SECURITIES EX-**
4 **CHANGE ACT OF 1934.**

5 (a) AMENDMENTS TO THE SECURITIES ACT OF
6 1933.—

7 (1) TREATMENT OF SECURITY FUTURE PROD-
8 UCTS.—Section 2(a) of the Securities Act of 1933
9 (15 U.S.C. 77b(a)) is amended—

10 (A) in paragraph (1), by inserting “secu-
11 rity future,” after “treasury stock,”;

12 (B) in paragraph (3), by adding at the end
13 the following: “Any offer or sale of a security
14 future product by or on behalf of the issuer of
15 the securities underlying the security future
16 product, an affiliate of the issuer, or an under-
17 writer, shall constitute a contract for sale of,
18 sale of, offer for sale, or offer to sell the
19 issuer’s underlying securities.”;

20 (C) by adding at the end the following:

21 “(16) The terms ‘security future’, ‘narrow-
22 based security index’, and ‘security future product’
23 have the same meanings as provided in section
24 3(a)(55) of the Securities Exchange Act of 1934.”.

25 (2) EXEMPTION FROM REGISTRATION.—Section
26 3(a) of the Securities Act of 1933 (15 U.S.C.

1 77c(a)) is amended by adding at the end the fol-
2 lowing:

3 “(14) Any security future product that is—

4 “(A) cleared by a clearing agency reg-
5 istered under section 17A of the Securities Ex-
6 change Act of 1934 or exempt from registration
7 under subsection (b)(4) of such section 17A;
8 and

9 “(B) traded on a national securities ex-
10 change or a national securities association reg-
11 istered pursuant to section 15A(a) of the Secu-
12 rities Exchange Act of 1934.”.

13 (3) CONFORMING AMENDMENT.—Section
14 12(a)(2) of the Securities Act of 1933 (15 U.S.C.
15 77l(a)(2)) is amended by striking “paragraph (2)”
16 and inserting “paragraphs (2) and (14)”.

17 (b) AMENDMENTS TO THE SECURITIES EXCHANGE
18 ACT OF 1934.—

19 (1) EXEMPTION FROM REGISTRATION.—Section
20 12(a) of the Securities Exchange Act of 1934 (15
21 U.S.C. 78l(a)) is amended by adding at the end the
22 following: “The provisions of this subsection shall
23 not apply in respect of a security future product list-
24 ed on a national securities exchange.”.

1 (2) EXEMPTIONS FROM REPORTING REQUIRE-
2 MENT.—Section 12(g)(5) of the Securities Exchange
3 Act of 1934 (15 U.S.C. 78l(g)(5)) is amended by
4 adding at the end the following: “For purposes of
5 this subsection, a security future product shall not
6 be considered a class of equity security of the issuer
7 of the securities underlying the security future prod-
8 uct.”.

9 (3) TRANSACTIONS BY CORPORATE INSIDERS.—
10 Section 16 of the Securities Exchange Act of 1934
11 (15 U.S.C. 78p) is amended by adding at the end
12 the following:

13 “(f) TREATMENT OF TRANSACTIONS IN SECURITY
14 FUTURE PRODUCTS.—The provisions of this section shall
15 apply to ownership of and transactions in security future
16 products as if they were ownership of and transactions in
17 the underlying equity security. The Commission may
18 adopt such rules and regulations as it deems necessary
19 or appropriate in the public interest to carry out the pur-
20 poses of this section.”.

1 **SEC. 209. AMENDMENTS TO THE INVESTMENT COMPANY**
2 **ACT OF 1940 AND THE INVESTMENT ADVIS-**
3 **ERS ACT OF 1940.**

4 (a) DEFINITIONS UNDER THE INVESTMENT COM-
5 PANY ACT OF 1940 AND THE INVESTMENT ADVISERS ACT
6 OF 1940.—

7 (1) Section 2(a)(36) of the Investment Com-
8 pany Act of 1940 (15 U.S.C. 80a-2(a)(36)) is
9 amended by inserting “security future,” after
10 “treasury stock,”.

11 (2) Section 202(a)(18) of the Investment Advis-
12 ers Act of 1940 (15 U.S.C. 80b-2(a)(18)) is amend-
13 ed by inserting “security future,” after “treasury
14 stock,”.

15 (3) Section 2(a) of the Investment Company
16 Act of 1940 (15 U.S.C. 80a-2(a)) is amended by
17 adding at the end the following:

18 “(52) The terms ‘security future’ and ‘narrow-
19 based security index’ have the same meanings as
20 provided in section 3(a)(55) of the Securities Ex-
21 change Act of 1934.”.

22 (4) Section 202(a) of the Investment Advisers
23 Act of 1940 (15 U.S.C. 80b-2(a)) is amended by
24 adding at the end the following:

25 “(25) The terms ‘security future’ and ‘narrow-
26 based security index’ have the same meanings as

1 provided in section 3(a)(55) of the Securities Ex-
2 change Act of 1934.”.

3 (b) OTHER PROVISION.—Section 203(b) of the In-
4 vestment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is
5 amended—

6 (1) by striking “or” at the end of paragraph
7 (4);

8 (2) by striking the period at the end of para-
9 graph (5) and inserting “; or”; and

10 (3) by adding at the end the following:

11 “(6) any investment adviser that is registered,
12 or required to be registered, with the Commodity
13 Futures Trading Commission as a commodity trad-
14 ing advisor whose business does not consist pri-
15 marily of acting as an investment adviser, as defined
16 in section 202(a)(11) of this title, and that does not
17 act as an investment adviser to (A) an investment
18 company registered under title I of this Act, or (B)
19 a company which has elected to be a business devel-
20 opment company pursuant to section 54 of title I of
21 this Act and has not withdrawn its election.”.

1 **Subtitle B—Conforming Amend-**
2 **ments to the Commodity Ex-**
3 **change Act**

4 **SEC. 221. JURISDICTION OF SECURITIES AND EXCHANGE**
5 **COMMISSION.**

6 Section 2(a)(1) of the Commodity Exchange Act (7
7 U.S.C. 2, 2a, 4) is amended by adding at the end the fol-
8 lowing:

9 “(D)(i) Notwithstanding any other provi-
10 sion of this Act, the Securities and Exchange
11 Commission shall have jurisdiction and author-
12 ity over security futures as defined in section
13 3(a)(55) of the Securities Exchange Act of
14 1934, section 2(a)(16) of the Securities Act of
15 1933, section 2(a)(52) of the Investment Com-
16 pany Act of 1940, and section 202(a)(25) of
17 the Investment Advisers Act of 1940, options
18 on security futures, and persons effecting trans-
19 actions in security futures and options thereon,
20 and this Act shall apply to and the Commission
21 shall have jurisdiction with respect to accounts,
22 agreements (including any transaction which is
23 of the character of, or is commonly known to
24 the trade as, an ‘option’, ‘privilege’, ‘indemnity’,
25 ‘bid’, ‘offer’, ‘put’, ‘call’, ‘advance guaranty’, or

1 ‘decline guaranty’) and transactions involving,
2 and may designate a board of trade as a con-
3 tract market in, a security future product as
4 defined in section 1(a)(19) of this Act: *Pro-*
5 *vided, however,* That no board of trade shall be
6 designated as a contract market with respect to
7 any such contracts of sale for future delivery
8 unless the board of trade making such applica-
9 tion demonstrates and the Commission ex-
10 pressly finds that the specific contract with re-
11 spect to which the application has been made,
12 or the board of trade, meets the following cri-
13 teria:

14 “(I) That any security underlying the
15 security future, including each component
16 security of a contract of sale for future de-
17 livery on a narrow-based security index, be
18 registered pursuant to section 12 of the
19 Securities Exchange Act of 1934.

20 “(II) That the security future product
21 be cash settled.

22 “(III) That the security future prod-
23 uct not be traded on an exempt board of
24 trade or a designated transaction execution
25 facility.

1 “(IV) That the security future be
2 based upon common stock and such other
3 equity securities as the Commission deter-
4 mines appropriate.

5 “(V) That the security future product
6 is cleared by a clearing agency that has in
7 place provisions for linked and coordinated
8 clearing with other clearing agencies that
9 clear security future products, which per-
10 mits the security future product to be pur-
11 chased on a designated contract market,
12 national securities exchange registered
13 under section 6(a) of the Securities Ex-
14 change Act of 1934, or national securities
15 association registered pursuant to section
16 15A(a) of the Securities Exchange Act of
17 1934 and offset on another designated con-
18 tract market, national securities exchange
19 registered under section 6(a) of the Securi-
20 ties Exchange Act of 1934, or national se-
21 curities association registered pursuant to
22 section 15A(a) of the Securities Exchange
23 Act of 1934.

24 “(VI) That only futures commission
25 merchants, introducing brokers, commodity

1 trading advisers, commodity pool operators
2 or associated persons subject to suitability
3 rules comparable to those of a national se-
4 curities association registered pursuant to
5 section 15A(a) of the Securities Exchange
6 Act of 1934 solicit, accept any order for,
7 or otherwise deal in any transaction in or
8 in connection with a contract of sale for
9 future delivery in a security future prod-
10 uct.

11 “(VII) That the security future prod-
12 uct be subject to a prohibition against dual
13 trading in section 4j of this Act or the pro-
14 visions of section 11(a) of the Securities
15 Exchange Act of 1934 and the rules and
16 regulations thereunder, except to the ex-
17 tent otherwise permitted under the Securi-
18 ties Exchange Act of 1934 and the rules
19 and regulations thereunder.

20 “(VIII) That trading in a security fu-
21 ture product and any security that
22 underlies the security future product not
23 be readily susceptible to manipulation.

24 “(IX) That the board of trade has
25 procedures in place for coordinated surveil-

1 lance to detect manipulation and insider
2 trading between the contract market trad-
3 ing the security future product, the market
4 trading the securities underlying the secu-
5 rity future product, and other markets
6 trading related securities.

7 “(X) That the contract market trad-
8 ing the security future product has in place
9 audit trails necessary or appropriate to fa-
10 cilitate the coordinated surveillance re-
11 quired in subclause (IX).

12 “(XI) That the contract market trad-
13 ing the security future product has in place
14 procedures to coordinate trading halts be-
15 tween that contract market and markets
16 trading the securities underlying the secu-
17 rity future product and other markets
18 trading related securities.

19 “(XII) That the margin requirements
20 for a security future product be consistent
21 with the margin requirements for com-
22 parable option contracts traded on an ex-
23 change registered pursuant to section 6(a)
24 of the Securities Exchange Act of 1934
25 and that initial and maintenance margin

1 levels for a security future product shall
2 not be lower than the levels of margin re-
3 quired for comparable option contracts
4 traded on an exchange registered pursuant
5 to section 6(a) of the Securities Exchange
6 Act of 1934, except that nothing in this
7 subclause shall be construed to prevent a
8 board of trade from requiring higher mar-
9 gin levels for a security future product
10 when it deems such action to be necessary
11 or appropriate.

12 “(ii) It shall be unlawful for any person to
13 offer, to enter into, to execute, to confirm the
14 execution of, or to conduct any office or busi-
15 ness anywhere in the United States, its terri-
16 tories or possessions, for the purpose of solie-
17 iting, or accepting any order for, or otherwise
18 dealing in, any transaction in, or in connection
19 with, a contract for the purchase or sale of a
20 security future product for future delivery
21 unless—

22 “(I) such transaction is conducted on
23 or subject to the rules of a board of trade
24 which has been designated by the Commis-

1 sion as a contract market in a security fu-
2 ture product;

3 “(II) such contract is executed or con-
4 summed by or through a member of such
5 contract market; and

6 “(III) such contract is evidenced by a
7 record in writing which shows the date, the
8 parties to such contract and their address-
9 es, the property covered and its price: *Pro-*
10 *vided*, That each contract market member
11 shall keep such record for a period of 3
12 years from the date thereof, or for a longer
13 period if the Commission shall so direct,
14 which record shall at all times be open to
15 the inspection of any representative of the
16 Commission or the Securities and Ex-
17 change Commission or the Department of
18 Justice.

19 “(iii)(I) Except as provided in subclause
20 (II) but notwithstanding any other provision of
21 this Act, no person shall offer to enter into,
22 enter into, or confirm the execution of any op-
23 tion on a security future.

24 “(II) After 3 years after the date of enact-
25 ment of the Commodity Futures Modernization

1 Act of 2000, the Commission and the Securities
2 and Exchange Commission may by order deter-
3 mine to permit trading of options on any secu-
4 rity future authorized to be traded under the
5 provisions of this Act and the Securities Ex-
6 change Act of 1934. Before any such deter-
7 mination, the Commission and the Securities
8 and Exchange Commission shall conduct a
9 study of the effect of the trading of security fu-
10 tures on the markets for futures contracts, se-
11 curities, and options and the adequacy of pro-
12 tections for investors and other market partici-
13 pants.

14 “(iv)(I) All records of persons registered
15 with the Commission pursuant to section
16 4f(a)(2) and exempt from registration pursuant
17 to section 4k(6) and a board of trade des-
18 ignated as contract market in security futures
19 pursuant to section 5f are subject at any time,
20 or from time to time, to such reasonable peri-
21 odic, special, or other examinations by rep-
22 resentatives of the Commission as the Commis-
23 sion deems necessary or appropriate in the pub-
24 lic interest, for the protection of investors, or
25 otherwise in furtherance of the purposes of this

1 title if the Commission, prior to conducting any
2 such examination of a futures commission mer-
3 chant, introducing broker, floor trader, or floor
4 broker registered pursuant to section 4f(a)(2),
5 or associated person exempt from registration
6 pursuant to section 4k(6), or a board of trade
7 designated as a contract market in a security
8 future product pursuant to section 5f, gives no-
9 tice to the Securities and Exchange Commission
10 of such proposed examination and consults with
11 the Securities and Exchange Commission con-
12 cerning the feasibility and desirability of coordi-
13 nating such examination with examinations con-
14 ducted by the Securities and Exchange Com-
15 mission with a view to avoiding unnecessary
16 regulatory duplication or undue regulatory bur-
17 dens for such registrant or board of trade.

18 “(II) The Commission shall notify the Se-
19 curities and Exchange Commission of any ex-
20 amination conducted of any futures commission
21 merchant, introducing broker, floor trader, or
22 floor broker registered pursuant to section
23 4f(a)(2), or associated person exempt from reg-
24 istration pursuant to section 4k(6), or a board
25 of trade designated as a contract market in a

1 security future product pursuant to section 5f,
2 and, upon request, furnish to the Commission
3 any examination report and data supplied to
4 the Securities and Exchange Commission in
5 connection with such examination.

6 “(III) The Commission shall, to the fullest
7 extent possible, use the reports of examinations
8 of any futures commission merchant, intro-
9 ducing broker, floor trader, or floor registered
10 pursuant to section 4f(a)(2), or associated per-
11 son exempt from registration pursuant to sec-
12 tion 4k(6), or a board of trade designated as a
13 contract market in a security future product
14 pursuant to section 5f, made by the Securities
15 and Exchange Commission, a national securities
16 association registered pursuant to section
17 15A(a) of the Securities Exchange Act of 1934
18 (15 U.S.C. 78o-3), or a national securities ex-
19 change registered pursuant to section 6(a) of
20 the Securities Exchange Act of 1934 (15
21 U.S.C. 78f(g)).

22 “(IV) Nothing in this subsection shall be
23 construed to impair or limit (other than by the
24 requirement of prior consultation) the power of
25 the Commission under this subsection to exam-

1 ine any futures commission merchant, intro-
2 ducing broker, floor trader, or floor broker reg-
3 istered pursuant to section 4f(a)(2), or associ-
4 ated person exempt from registration pursuant
5 to section 4k(6), or a board of trade designated
6 as a contract market in a security future prod-
7 uct pursuant to section 5f, or to affect in any
8 way the power of the Commission under any
9 other provision of this Act.”.

10 (b) MARGIN ON SECURITY FUTURES.—Section
11 2(a)(1)(C)(vi) of the Commodity Exchange Act (7 U.S.C.
12 2a(vi)) (as redesignated by section 123) is amended—

13 (1) by redesignating subclause (V) as subclause
14 (VI); and

15 (2) by striking “(vi)(I)” and all that follows
16 through subclause (IV) and inserting the following:

17 “(vi)(I) Notwithstanding any
18 other provision of this Act, any con-
19 tract market in a stock index futures
20 (or option thereon), other than a secu-
21 rity future product, shall file with the
22 Board of Governors of the Federal
23 Reserve System any rule establishing
24 or changing the levels of margin (ini-
25 tial and maintenance) for such stock

1 index futures contract (or option
2 thereon), other than security future
3 products.

4 “(II) The Board may at any time
5 request any contract market to set the
6 margin for any stock index futures
7 contract (or option thereon), other
8 than for any security future product,
9 at such levels as the Board in its
10 judgment determines are appropriate
11 to preserve the financial integrity of
12 the contract market or its clearing
13 system or to prevent systemic risk. If
14 the contract market fails to do so
15 within the time specified by the Board
16 in its request, the Board may direct
17 the contract market to alter or supple-
18 ment the rules of the contract market
19 as specified in the request.

20 “(III) Subject to such conditions
21 as the Board may determine, the
22 Board may delegate any or all of its
23 authority, relating to margin for any
24 stock index futures contract, other

1 than security future products, under
2 this clause to the Commission.

3 “(IV) REGULATIONS.—It shall be
4 unlawful for any futures commission
5 merchant to, directly or indirectly, ex-
6 tend or maintain credit to or for, or
7 collect margin from any customer on
8 any security future product unless
9 such activities comply with the rules
10 and regulation which the Commission
11 and the Securities and Exchange
12 Commission shall prescribe pursuant
13 to section 7(c)(2)(B) of the Securities
14 Exchange Act of 1934.

15 “(V) Nothing in this clause shall
16 supersede or limit the authority grant-
17 ed to the Commission in section 8a(9)
18 to direct a contract market, on finding
19 an emergency to exist, to raise tem-
20 porary margin levels on any futures
21 contract, or option on the contract
22 covered by this clause, or on any secu-
23 rity future product.”.

1 **SEC. 222. APPLICATION OF THE COMMODITY EXCHANGE**
2 **ACT TO NATIONAL SECURITIES EXCHANGES**
3 **AND NATIONAL SECURITIES ASSOCIATIONS**
4 **THAT TRADE SECURITY FUTURES.**

5 (a) NOTICE DESIGNATION OF NATIONAL SECURITIES
6 EXCHANGES AND NATIONAL SECURITIES ASSOCIA-
7 TIONS.—The Commodity Exchange Act is amended by in-
8 serting after section 5e (7 U.S.C. 7b), as amended by sec-
9 tion 115, the following:

10 **“SEC. 5f. DESIGNATION OF SECURITIES EXCHANGES AND**
11 **ASSOCIATIONS AS CONTRACT MARKETS.**

12 “(a) Any board of trade that is registered with the
13 Securities and Exchange Commission as a national securi-
14 ties exchange or is a national securities association reg-
15 istered pursuant to section 15A(a) of the Securities Ex-
16 change Act of 1934 shall be a designated contract market
17 in security future products if such national securities ex-
18 change or national securities association—

19 “(1) lists or trades no other contracts of sale
20 for future delivery, except for contracts of sale for
21 future delivery in security future products;

22 “(2) files written notice with the Commission in
23 such form as the Commission, by rule, may prescribe
24 containing such information as the Commission, by
25 rule, may prescribe as necessary or appropriate in

1 the public interest or for the protection of cus-
2 tomers; and

3 “(3) is not subject to a suspension pursuant to
4 an order by the Securities and Exchange Commis-
5 sion.

6 “(b)(1) A national securities exchange or national se-
7 curities association that is designated as a contract market
8 pursuant to section 5f of this Act shall be exempt from
9 the following provisions of this Act and the rules there-
10 under:

11 “(A) Subsections (a) and (d) of section 4j.

12 “(B) Section 5.

13 “(C) Section 5c.

14 “(D) Section 6a.

15 “(E) Subsections (b), (c), (d), and (e) of section
16 8.

17 “(F) Section 8e.

18 “(G) Subsections (a) and (f) of section 9.

19 “(H) Section 16.

20 “(I) Section 22(b).

21 “(2)(A) Except as provided in subparagraph (B), but
22 notwithstanding any other provision of this Act, the Com-
23 mission, by rule, regulation, or order, may conditionally
24 or unconditionally exempt any designated contract market
25 in security futures subject to the designation requirement

1 of this section from any provision or provisions of this Act
2 or of any rule or regulation thereunder, to the extent such
3 exemption is necessary or appropriate in the public inter-
4 est and is consistent with the protection of investors.

5 “(B) The Commission shall, by rule or regulation, de-
6 termine the procedures under which an exemptive order
7 under this section shall be granted and may, in its sole
8 discretion, decline to entertain any application for an
9 order of exemption under this section.”.

10 (b) NOTICE REGISTRATION OF SECURITIES BROKER-
11 DEALERS.—Section 4f(a) of the Commodity Exchange
12 Act (7 U.S.C. 6f(a)) is amended—

13 (1) by inserting “(1)” after “(a)”; and

14 (2) by adding at the end the following:

15 “(2) Notwithstanding paragraph (1), any broker or
16 dealer that is registered with the Securities and Exchange
17 Commission shall be registered as a futures commission
18 merchant, introducing broker, floor broker, or floor trader,
19 as applicable, if such broker or dealer—

20 “(A) limits its solicitation of orders, acceptance
21 of orders, or the execution of orders, or placing of
22 orders on behalf of others involving any contracts of
23 sale of any commodity for future delivery, on or sub-
24 ject to the rules of any contract market to those con-
25 tracts of sale on security future products;

1 “(B) files written notice with the Commission
2 in such form as the Commission, by rule, may pre-
3 scribe containing such information as the Commis-
4 sion, by rule, may prescribe as necessary or appro-
5 priate in the public interest or for the protection of
6 investors;

7 “(C) is not subject to a suspension pursuant to
8 an order of the Securities and Exchange Commis-
9 sion; and

10 “(D) is a member of a national securities asso-
11 ciation registered pursuant to section 15A(a) of the
12 Securities Exchange Act of 1934.”.

13 (c) EXEMPTION FOR SECURITIES BROKER-DEALERS
14 FROM CERTAIN PROVISIONS OF THE COMMODITY EX-
15 CHANGE ACT.—Section 4f(a) of the Commodity Exchange
16 Act (7 U.S.C. 6f(a)) is amended by inserting after para-
17 graph (2), as added by subsection (b), the following:

18 “(3)(A) A broker or dealer that is registered as a fu-
19 tures commission merchant, introducing broker, floor
20 broker, or floor trader, pursuant to paragraph (2) shall
21 be exempt from the following provisions of this Act and
22 the rules thereunder:

23 “(i) Sections 4c, 4d, 4e, and 4h.

24 “(ii) Subsections (b) and (c) of this section.

25 “(iii) Subsections (b) and (c) of section 4j.

1 “(iv) Subsections (a) and (b) of section 4p.

2 “(v) Section 6d.

3 “(vi) Section 8(g).

4 “(vii) Section 22(a).

5 “(B)(i) Except as provided in clause (ii), but notwith-
6 standing any other provision of this Act, the Commission,
7 by rule, regulation, or order, may conditionally or uncondi-
8 tionally exempt any broker or dealer subject to the reg-
9 istration requirement of paragraph (2) of this subsection,
10 from any provision or provisions of this Act or of any rule
11 or regulation thereunder, to the extent such exemption is
12 necessary or appropriate in the public interest and is con-
13 sistent with the protection of investors.

14 “(ii) The Commission shall, by rule or regulation, de-
15 termine the procedures under which an exemptive order
16 under this section shall be granted and may, in its sole
17 discretion, decline to entertain any application for an
18 order of exemption under this section.

19 “(C)(i) A broker or dealer that is registered as a fu-
20 tures commission merchant, introducing broker, floor
21 broker, or floor trader pursuant to paragraph (2), or an
22 associated person thereof, shall not be required to become
23 a member of any futures association registered under sec-
24 tion 17 of this Act.

1 “(ii) No futures association registered under section
2 17 of this Act shall limit its members from carrying an
3 account, accepting an order, or transacting business with
4 a broker or dealer that is registered as a futures commis-
5 sion merchant, introducing broker, floor broker, or floor
6 trader pursuant to paragraph (2), or an associated person
7 thereof.”.

8 (d) NOTICE REGISTRATION AND EXEMPTIONS FOR
9 ASSOCIATED PERSONS OF SECURITIES BROKER-DEAL-
10 ERS.—Section 4k of the Commodity Exchange Act (7
11 U.S.C. 6k) is amended by adding at the end the following:

12 “(6) Any person who is an associated person of
13 broker or dealer that is registered with the Securities and
14 Exchange Commission, and who limits its solicitation of
15 orders, acceptance of orders, or the execution of orders,
16 or placing of orders on behalf of others involving any con-
17 tracts of sale of any commodity for future delivery, on or
18 subject to the rules of any contract market to those con-
19 tracts of sale on security future products, shall be exempt
20 from the following provisions of this Act and the rules
21 thereunder:

22 “(A) Sections 4c, 4d, 4e, and 4h.

23 “(B) Subsections (b) and (c) of section 4f.

24 “(C) Subsections (b) and (c) of section 4j.

25 “(D) Section 4k(1).

1 “(E) Subsections (a) and (b) of section 4p.

2 “(F) Section 6d.

3 “(G) Section 8(g).

4 “(H) Section 22(a).”.

5 **SEC. 223. NOTIFICATION OF INVESTIGATIONS AND EN-**
6 **FORCEMENT ACTIONS.**

7 (a) Section 8(a) of the Commodity Exchange Act (7
8 U.S.C. 12(a)) is amended by adding at the end the fol-
9 lowing:

10 “(3) The Commission shall file with the Securities
11 and Exchange Commission notice of the commencement
12 of any proceeding and a copy of any order entered by the
13 Commission against any futures commission merchant, in-
14 troducing broker, floor trader or floor broker registered
15 pursuant to section 4f(a)(2) of this Act, any associated
16 person exempt from registration pursuant to section 4k(6)
17 of this Act, or any board of trade designated as a contract
18 market pursuant to section 5f of this Act.”.

19 (b) Section 6 of the Commodity Exchange Act (7
20 U.S.C. 8, 9, 9a, 9b, 13b, 15) is amended by adding at
21 the end the following:

22 “(g) The Commission shall file with the Securities
23 and Exchange Commission notice of the commencement
24 of any proceeding and a copy of any order entered by the
25 Commission pursuant to subsections (c) and (d) against

1 any futures commission merchant, introducing broker,
2 floor trader or floor broker registered pursuant to section
3 4f(a)(2) of this Act, any associated person exempt from
4 registration pursuant to section 4k(6) of this Act, or any
5 board of trade designated as a contract market pursuant
6 to section 5f of this Act.”.

7 (c) Section 6c of the Commodity Exchange Act (7
8 U.S.C. 13a–1) is amended by adding at the end the fol-
9 lowing:

10 “(h) The Commission shall file with the Securities
11 and Exchange Commission notice of the commencement
12 of any proceeding and a copy of any order entered by the
13 Commission against any futures commission merchant, in-
14 troducing broker, floor trader or floor broker registered
15 pursuant to section 4f(a)(2) of this Act, any associated
16 person exempt from registration pursuant to section 4k(6)
17 of this Act, or any board of trade designated as a contract
18 market pursuant to section 5f of this Act.”.

19 **Subtitle C—Effective Date**

20 **SEC. 231. EFFECTIVE DATE.**

21 This title and the amendments made by this title take
22 effect on the date of enactment of this Act.